

# City Personnel Rules and Regulations, 2004



Human Resources Department

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# Rule 1

## Section 101: Purpose and Legal Requirements

### A. Resolution

The purpose of this resolution is to establish a human resource system that meets the needs of the citizens and employees of the City of Tempe. This system provides a means to recruit, select, develop and maintain an effective and responsive workforce. Policies are included for:

Job Classification	Salary Administration
Retirement	Fringe Benefits
Leave	Discipline
Discharge	Other Related Activities

1. All human resources-related activities are based on merit principles as defined by the City of Tempe.
2. This resolution is not intended to serve as a contract of employment or to guarantee employment to any employee. No individual or representative of the City has the authority to make any agreement to the contrary.
3. This resolution applies to City employees in approved positions, not to individuals who perform work for the City on a contractual basis.
4. This resolution is established in accordance with Ordinance 88.53.
5. Should any article, paragraph, sentence, clause, or phrase of this resolution or the application of the same to a particular set of persons or circumstances be declared unconstitutional or invalid for any reason, the remainder of such resolution shall not be affected.
6. This resolution, the City of Tempe Personnel Rules and Regulations, may be amended or changed by the City Council at any time in accordance with Ordinance 88.53 and the charter of the City of Tempe.
7. This resolution controls if practice or representations are inconsistent with this resolution.

### B. Employee Records

Employee records are the property of the City of Tempe and are kept strictly confidential except where disclosure is required by law.

### C. Administrative Memoranda

All Administrative Memoranda shall be approved by the City Council. Wherever there is a conflict between this resolution and an Administrative Memorandum, this resolution shall prevail. Administrative Memoranda may be amended or changed by the City Council at any time in

accordance with Ordinance 88.53 and the charter of the City of Tempe. Administrative Memoranda will be submitted for review to Representatives of the Tempe Officer's Association, United Phoenix Firefighters Association Local 493, Tempe Chapter, the Tempe Supervisors' Council, and the Tempe Employees' Council.

**D. Shall, Must, Will and May - Defined**

In the context of the City of Tempe Personnel Rules and Regulations and this resolution, the words shall, must, will and may have slightly, but significantly, different meanings, which are defined as follows:

- Shall: Means the action that follows is mandatory.
- Must: Means the action that follows is a necessary act or duty.
- Will: Means the action that follows is the City's desired action.
- May: Means the action that follows is a permitted possibility.

## **Section 102: Personnel Officer**

### **A. City Manager**

The City Manager is the Personnel Officer and may delegate any of the powers, duties and responsibilities to any other employee of the City or may contract for human resources services. References to Human Resources Manager in this resolution refer to the individual with day-to-day responsibility for citywide human resources management. (See also City of Tempe Charter, Article IV, Section 402 - Pages 1 and 2)

### **B. Human Resources Manager**

The Human Resources Manager is responsible for the development and administration of a comprehensive system to select and compensate an effective work force, maintain personnel and payroll records, provide employee fringe benefits, and communicate personnel policies and practices.

The Human Resources Manager manages the development and discipline of employees. The Human Resources Manager or designee attends all meetings of the, serves as Secretary to the Board, supports the appropriate Committee of the City Council, and submits revisions and amendments to the Personnel Rules and Regulations to the City Council.

## **Section 103: Classified Service**

### **A. Definition**

The classified service includes all employees whose positions have been approved and budgeted by the City Council in the line item, "Salaries" (regular employees), and have not been included in the unclassified service. The classified service is designed to facilitate efficient and economical services to the public, and to provide for a fair and equitable system of human resources management.

1. It is the policy of the City of Tempe that appointments, promotions and other employment decisions are based upon merit and ability, free of unlawful and political considerations.
2. Tenure of employees in the classified service is subject to satisfactory work performance, necessity for the performance of work, the availability of funds, or other appropriate reason. (See also Sections 403 Layoff, 406 Disciplinary Action/Employee Performance Improvement Process and 407 Strike.)

### **B. Contractors**

A classified employee cannot be hired as an independent contractor.

### **C. Volunteers**

Non-exempt City employees shall not perform hours of volunteer service for the City of Tempe when the volunteer hours involve the "same type of services" (as defined by the Fair Labor Standards Act) for which the individual is currently employed to perform.

## **Section 104: Unclassified Service**

### **A. Definition**

The unclassified service is defined as those employees who are NOT eligible to submit appeals to the Merit System Board and includes employees in which administrative necessity dictates that the positions be responsive and accountable to City policy or are temporary and provisional in nature. Employees within the unclassified service are at-will employees; employment is subject to termination by the employee or the City at any time for any reason, unless otherwise stated in a written contract of employment.

Regular unclassified employees whose performance meets job standards may receive a step increase at the end of six (6) months of employment, at the discretion of the Department Manager.

### **B. Elected Officials**

1. Volunteers and Personnel Appointed to Serve Without Pay.

Non-exempt City employees shall not perform hours of volunteer service for the City of Tempe when the volunteer hours involve the "same type of services" (as defined by the Fair Labor Standards Act) for which the individual is currently employed to perform.

2. All City Officers Appointed by the City Council

- City Manager
- City Clerk
- City Attorney
- Presiding City Judge
- City Judge

3. Staff Positions as Determined by the City Manager.

See Administrative Memorandum—Unclassified Service

The City Manager is authorized to negotiate a severance agreement with an unclassified employee before involuntary separation of service or resignation at the request of management, in accordance with the Tempe City Charter, Article II, Section 2-19.

4. Consultants, Contractors, & Legal Counsel

Consultants, independent contractors, and legal counsel rendering professional services.

5. Temporary Employees

Temporary employees hired to perform a job which is limited in nature are not to exceed twenty-four (24) months of employment except under

special circumstances with the approval of the Human Resources Manager. Temporary employees who are limited to less than twenty (20) work hours per week of employment are not subject to the twenty-four (24) months of employment limitation. Extended appointments are restricted to positions which require a considerable period of training and preparation, where a change of personnel would have an adverse effect on the program, or which are funded by non-City money, (e.g., state and federal grants).

Temporary employees employed by the Community Services Department in a seasonal, recreational capacity may exceed twelve (12) months of employment in duration. Supervisors should limit the hours worked to less than twenty (20) hours per week unless services and/or programs would be negatively impacted.

Temporary employees who work twenty (20) or more hours per week for more than twenty (20) weeks in a fiscal year are required to contribute to the Arizona State Retirement System.

6. Temporary Employees Filling In for Regular Employees on Long-Term Disability, Industrial Accident Leave, or Extended Leave Without Pay.

If the temporary assignment lasts for more than six (6) months, these employees receive the same insurance and paid leave as regular employees, beginning the seventh month of their employment. However, they remain “unclassified” and temporary for all other purposes.

7. New Probationary Employees

### **C. Rules and Sections Not Applying to Unclassified Employees**

The following Rules and Sections do not apply to unclassified employees:

1. Rule 3. Employment

Section 302. Recruitment

Section 304. Selection

Section 305. Reinstatement

Section 306. Probation

2. Rule 4. Employee Status

Section 403. Layoff

Section 406. Subsections L through O

Rule 6. Employee Rights, Responsibilities, and Limitations

Section 605. Grievance Procedure

## **Section 105: Merit System Board**

### **A. Membership**

Section 4.02(c) of the Tempe City Charter provides for a Merit System Board consisting of three (3) qualified electors residing in the City of Tempe.

1. The Board members are appointed by a majority vote of the City Council for staggered three-year terms. The Council fills vacancies for unexpired terms.
2. The Council may remove Merit System Board members for cause.
3. No member of the Merit System Board shall hold any paid Tempe municipal position.
4. The Board members select the Chairperson from the membership, and
5. The Human Resources Manager, or designee, serves as Secretary. The Merit System Board Chairperson also serves on the Police and Firefighter's Public Safety Personnel Retirement Boards.

### **B. Meetings and Hearings**

The Merit System Board determines the order of business for the conduct of its meetings.

1. The Board meets on call of the Chairperson or Secretary.
2. The Board hears appeals submitted by employees in the classified service in relation to dismissal, demotion, disciplinary pay reduction, or suspension of more than forty (40) hours (56 hours for Firefighters, 48 hours for Fire Battalion Chiefs).
3. Employees must exercise and exhaust internal appeal procedures before requesting a hearing before the Merit System Board. (See Section 406, Disciplinary Action/Employee Performance Improvement Process)
4. Employees have seven (7) calendar days following receipt of a written notice of suspension of greater than forty (40) hours, disciplinary pay reduction, demotion, or dismissal to request a hearing before the Merit System Board. The written request is to the Human Resources Manager and includes the reasons for the employee's appeal; intent to have legal counsel; and request for a public hearing, if so desired.
  - a. The employee has the right to be represented by legal counsel, which shall be at the employee's expense. The employee's attorney may address the Board and question witnesses. Any attorney representing the City is also allowed to address the Board and question witnesses.

- b. The hearing will be private in accordance with the provisions of the State of Arizona Open Meeting Act, A.R.S. 38-431, unless the employee demands a public hearing.
- 5. The department forwards supporting documents to the Human Resources Manager, who prepares the material for transmittal to the Board.
- 6. The provisions of this section do not apply to non-disciplinary reductions in pay or other matters described in Section 605: Grievance Procedure.

#### **C. Legal Counsel**

Impartial, outside legal counsel may be retained to advise and aid the Board in the conduct of the hearing. The legal counselor will advise the Board on the rules and general conduct of the hearing. The legal counselor will not question witnesses or aid the Board in its deliberations on the facts and the ultimate recommendation.

#### **D. Witnesses**

In a hearing, the Board or the parties and their attorneys have the power to examine witnesses under oath. It is the responsibility of each party to secure witnesses on his or her behalf. City of Tempe employees called as witnesses to Merit System Board hearings are allowed adequate time from work to testify. No employee shall be subject to any form of retaliation or discipline for testifying truthfully in a Merit System Board Hearing. The appealing employee and his or her representative, the Department Manager or designee and his or her representative, and the Human Resources Manager, or designee, are allowed to remain through the entire hearing. Other witnesses are required to remain outside the hearing room until called to give testimony.

#### **E. Technical Rules and Procedures of Evidence**

The Board is not bound by technical rules and procedures of evidence. The appealing employee has the burden of proof and makes the first presentation.

#### **F. Hearings**

The Merit System Board conducts a hearing expeditiously and makes its recommendation to the City Manager. The decision of the City Manager is final.

#### **G. Personnel Rules and Regulations**

The Merit System Board reviews changes to the Personnel Rules and Regulations before their submission to the City Council for approval.

## **H. Court Employees**

Pursuant to the jurisdiction of the Arizona Supreme Court, Tempe Municipal Court Administrative Order No. 94-11 declares “that all employees of the Tempe Municipal Court will be subject to the provisions of the Personnel Rules and Regulations of the City of Tempe, except that:

Judges shall be subject to the Arizona Commission on Judicial Conduct in disciplinary matters involving loss of pay, suspension or termination; and, applicable disciplinary appeals for non-judicial” and classified “Court employees shall be forwarded to the City Merit System Board which shall sit in such cases as the Tempe Municipal Court Merit Board. Merit System Board recommendations shall then be forwarded to the Presiding Judge who will be solely responsible for final decisions. Matters involving a conflict with the Presiding Judge shall be appealed to the Presiding Judge of Maricopa County.”

This provision does not limit the authority of the City Council to appoint the Presiding Judge, execute contracts for appointment of Municipal Court Judges, or remove any Municipal Court Judge from service to the City.

## **Section 106: Ethics**

It is the policy of the City of Tempe to uphold, promote and demand the highest standards of ethics from all of its employees. Accordingly, all City employees should maintain the utmost standards of personal integrity, truthfulness, honesty and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, and never use their City positions or powers for improper personal gain.

## **Rule 2**

### **Section 201: Classification Plan**

#### **A. Responsible Party**

The Human Resources Manager is responsible for the establishment and maintenance of a classification plan. Positions are assigned to a classification based on the nature and level of duties and responsibilities. All positions in the same class should be sufficiently alike to permit use of a single descriptive title, the same qualification requirements, and the same salary potential.

The Classification and Pay Plan provides a job title, job code, salary range, and Fair Labor Standards Act (FLSA) status for each job within the City.

#### **B. Reclassifications**

A position may be reclassified on the basis of changes in the duties and responsibilities or qualifications for the position. A reclassification or job title change requires approval of the Human Resources Manager and the City Manager.

#### **C. Job Descriptions**

Job Descriptions for all classifications provide distinguishing features of the class, examples of work performed, desirable training and experience, and other requirements deemed necessary by the Human Resources Manager. Positions requiring special licensing or requirements shall include such a statement.

1. The Human Resources Department maintains copies of current job descriptions.
2. Job Descriptions are descriptive only and are not restrictive in nature. Supervisors may assign different tasks to a position when the duties are similar in kind and responsibility to those described in the job description.

#### **D. New Positions**

New positions are established upon approval by the City Council. Department Managers then send a description of the duties, responsibilities, and recommended pay range for the position to the Human Resources Manager. The Human Resources Manager assigns the position to a classification and pay range.

#### **E. Positions Not Established by City Charter**

Any position not established by City Charter may be abolished by the City Council. Employees transferred, demoted, or laid-off because a position is abolished do not have the right of appeal.

**F. Entry Level Salary**

New employees shall be hired at the minimum of their salary range unless the City Manager determines that qualified applicants are not available at the minimum or that an applicant has special qualifications that justify a higher starting rate. The City Manager shall approve appointments made at a rate more than the minimum of their salary range.

## **Section 202: Salary Administration**

### **A. Guidelines**

The Classification and Pay Plan is adopted by the City Council and sets forth job titles and salary ranges of classified and unclassified City positions, excluding Council appointees.

### **B. Salaries Determined by City Council**

Salaries for the City Manager, City Clerk, City Attorney, and City Judge(s) are determined by City Council.

### **C. Salaries Determined by the City Manager**

The City Manager establishes guidelines for salary increases. Compensation is an administrative decision and is not subject to appeal to the Merit System Board.

Special step increases may be granted with approval of the City Manager unless the employee is at the maximum of his or her salary range.

Based on City policy and practice established pursuant to principles of public accountability, exempt employees (those exempt from the provisions of the Fair Labor Standards Act) may have their pay subject to deductions for absences of less than a day after all available accrued leave has been exhausted.

### **D. Promotions**

Employees who are promoted to a classification with a higher salary range maximum, or reclassified to a flexible class position within the Classification and Pay Plan, shall:

- Receive a ten percent (10%) increase up to the maximum of the new salary range, excluding Special Assignment Pay, or
- Be placed at the minimum of the new salary range, whichever is higher.

### **E. Flexible Class Promotion**

Departments may promote an employee who meets the minimum qualifications for the higher level classification within a flexible classification. Since employees are not required to go through a competitive promotional process, Human Resources designate this type of promotion as a flexible class promotion. Flexible classifications are designated with a plus sign (+) after the classification title on the City's Classification and Pay Plan.

- A promotion occurs when a qualified employee is selected for a position that is at a higher salary range maximum within the Classification and Pay Plan. Upon promotion to a supervisory position, employees shall receive a salary at least five percent (5%) higher than the rate of pay received by the highest paid subordinate

regularly supervised, disregarding any extra compensation, except assignment pay for sworn Fire Department employees, and except for maximum staffing pay for Police Officers.

#### **F. Salary Step Increases**

New employees shall receive a five percent (5%) step increase after successfully completing their probation. In July, following the completion of their initial probation, new classified, non-sworn employees who meet job standards are eligible to receive a pro-rated step increase based upon the month he or she successfully completed his or her probation as indicated in the following chart:

If probation was completed in:	% of Pro-rated Step Increase:
July	5.0%
August	4.6%
September	4.2%
October	3.8%
November	3.3%
December	2.9%
January	2.5%
February	2.1%
March	1.7%
April	1.3%
May	1.0%
June	0.0%

In July, employees who have not been on original probation during the previous twelve (12) months and who meet job standards are eligible to receive a five percent (5%) step increase up to the maximum of his or her salary range maximum.

An employee who is currently on a Performance Improvement Plan (PIP) or has been on a Performance Improvement Plan (PIP) within the previous twelve (12) months may receive a full or partial step increase at the discretion of the Department Manager.

Salary step increases for unclassified employees shall be approved by the City Manager.

#### **G. Reclassifications**

If there is a significant change in an employee's job duties and responsibilities, Human Resources may reclassify an employee's position with City Manager approval.

Employees occupying a position that has been reclassified to a higher salary range shall receive a five percent (5%) salary increase or be placed at the minimum of the new range, whichever is higher.

Employees occupying a position that has been reclassified to a lower salary range shall have their salary frozen if the new salary range maximum is lower than their current salary. The employee shall receive no salary increases until the new salary range maximum is higher than the employee's salary.

When an existing position has been reclassified to a higher level classification and there is more than one (1) employee within the same job classification as the job that has been reclassified, the reclassified position may be filled through a competitive reclassification process. Competitive reclassifications are limited to employees within the affected department, division, or work unit as determined by the Human Resources Manager or designee.

Employees occupying a position that has been competitively reclassified to a higher salary range shall receive a ten percent (10%) salary increase or be placed at the minimum of the new range, whichever is higher.

#### **H. Salary Range Adjustments**

Employees occupying a position whose salary range has been adjusted to a range with a higher salary range maximum do not receive an increase unless the employee's current rate of pay is lower than the minimum of the new salary range.

Employees occupying a position whose salary range has been adjusted to a range with a lower salary range maximum shall have their salary frozen if the new salary range maximum is lower than their current salary. The employee shall receive no salary increases until the new salary range maximum is higher than the employee's salary.

Reclassifications and salary range adjustments are not subject to the grievance procedure under Rule 6, Section 605 and cannot be appealed to the Merit System Board.

#### **I. Exempt Employees**

Based on City policy and practice established pursuant to principles of public accountability, exempt employees (those exempt from the provisions of the Fair Labor Standards Act) may have their pay subject to deductions for absences of less than a day. Exempt employees may apply for paid leave in accordance with the City of Tempe Rules and Regulations.

#### **J. Cost-of-Living Adjustments**

All regular non-sworn employees are eligible to receive a cost-of-living increase as determined by the City Council. All cost-of-living adjustments shall be effective the first pay period beginning after July 1, unless

otherwise specified. Employees on original or promotional probation or who are currently on a Performance Improvement Plan are eligible to receive a cost of living range adjustment. The salary range of each classification shall be adjusted based on the cost-of-living adjustment.

**K. Skill Based Pay**

Employees in the Water Utilities Department who are in identified Skill Based Pay (SBP) classifications may be eligible for compensation beyond their designated step pay progression point. This additional compensation may be in the form of market increases, skill block pay, and team bonus pay.

## **Section 203: Work Periods and Breaks**

### **A. Workweek**

The regular workweek for full-time employees is forty (40) hours. With approval of the Department Manager, work schedules may be arranged in any manner consistent with departmental operations to include more than eight (8) hours in any single 24-hour day.

The standard workweek shall be seven (7) consecutive days commencing on Monday morning at 12:01 a.m., and ending the following Sunday at midnight. Any work shift in progress at midnight, 12:00 a.m. Sunday shall be included as part of the work period in which that shift commenced.

The Fire Department has opted for a twenty-seven (27) day work schedule under §207(k) of the Fair Labor Standards Act.

### **B. Work Period – Fire Department**

The work period for uniformed, Fire Suppression employees assigned to 24-hour shifts is twenty-seven (27) consecutive calendar days (648 hours). The Fire Chief specifies the work duty cycle for these employees.

- The normal work schedule for 24-hour Fire employees is not more than 216 hours per work period.
- These employees receive the regular rate of pay for 204 hours per work period and overtime pay for twelve (12) hours. (See Section 204. B. Additional Compensation.)

### **C. Shift-Trades**

The trading of shifts or parts of shifts must be approved by the Department Manager or Supervisor designated by the Department Manager. Extra time accrued during a work period as a result of "trading shifts" is not counted as hours worked for overtime purposes. All Shift Trades must be made voluntarily by employees and are not approved for performing off-duty employment. The Department or City maintains no records of Shift Trades. Such records are the responsibility of the employees involved. The failure of an employee to pay back a shift trade is not grievable. The unfilled obligation resulting from failure of any employee to pay back a Shift Trade is not assumed by or transferred to the City.

### **D. Early Relief**

Early relief before the end of your scheduled shift is not permitted without Department Manager approval.

### **E. Work Breaks**

All employees (except Fire employees working fifty-six (56)-hour workweeks) who work at least eight (8) hours in a day are allowed two (2) fifteen-minute rest periods per day or shift. The Supervisor schedules all Work Breaks so that work areas are covered. Rest periods are counted

as time worked and cannot be combined or "banked" to shorten the workday. Compensatory time or overtime pay is not granted for rest periods not taken or for work performed during a rest period. Because of their twenty-four (24)-hour work schedule, Fire employees may be granted additional rest periods as determined by the Department Manager.

#### **F. Lunch Breaks**

Unpaid lunch breaks may be scheduled for employees working six (6) hours or more a day. The lunch period lasts for at least one-half (1/2) hour and is scheduled by the Supervisor. Unpaid lunch breaks may be scheduled for employees working less than six (6) hours with approval of the Supervisor and employee. An employee must be completely relieved from duty in order for the time to be a "bonafide lunch break."

- Sworn Police employees on patrol receive a paid one-half (1/2) hour scheduled lunch period, when possible. They respond to all calls during meal periods. Fire employees working twenty-four (24)-hour shifts eat during paid time. They respond to all calls during meal periods.
- Water Plant Operators must remain on duty during their entire shift and are paid for their one-half (1/2) hour lunch period.

#### **G. Exceptions**

Exceptions to work periods and breaks as outlined in this rule may be made by the Department Manager after review by the Human Resources Manager.

## **Section 204: Additional Compensation**

### **A. Overtime (Non-Exempt/Overtime Eligible Employees)**

Non-Exempt/Overtime Eligible employees (employees covered by all the provisions of the Fair Labor Standards Act—See also the Classification and Pay Plan), who perform work in excess of their regular work schedules within their work period, shall be compensated at the rate of one and one-half (1.5) times their regular rate of pay, excluding excess hours worked as a result of an authorized shift trade. Work period is defined, under the Fair Labor Standards Act, as 168 hours—seven (7) consecutive twenty-four (24)-hour periods established by the City for each non-exempt employee, excluding sworn fire protection and seasonal recreational employees. The work period may begin on any day of the week and at any hour of the day.

Overtime must first be approved by the Department Manager or designee before it is worked by the employee. Certain classifications, including most management employees and seasonal, recreational employees, are exempt from overtime provisions. Other employees who meet Department of Labor exemptions may also be exempt from overtime.

### **B. Overtime (Fire Department Employees)**

Fire employees who work twenty-four (24)-hour shifts receive overtime pay for hours worked in excess of 204 in a twenty-seven (27)-day work period, excluding excess hours accumulated as a result of an authorized shift trade.

### **C. Calculation of Overtime**

Overtime pay is calculated to the nearest quarter of an hour, in accordance with federal labor laws. For example, if an employee worked eight (8) minutes overtime, it would be rounded to the nearest quarter of an hour, and the employee would be compensated for fifteen (15) minutes overtime. Time under eight (8) minutes is considered de minimus (minor or trivial) and is not subject to overtime compensation.

### **D. Shift Differential**

A Shift Differential shall be paid for regularly scheduled work shifts including any hours between 10:00 p.m. and 4:00 a.m. Shift Differential is not paid for hours worked over the regular shift when work is a continuation of the regular shift. Employees who are called back and perform work outside their regularly assigned shifts and are receiving premium pay do not receive shift pay.

Shift Differential is approved for regular, non-exempt employees and sworn police employees below the grade of Commander. Fire Department employees who work fifty-six (56)-hour or forty-eight (48)-hour workweeks and temporary employees are exempt from Shift Differential.

Shift Differential is not paid to employees on paid or unpaid leave. An employee shall be paid a shift differential set by administrative policy when working a shift that ends between the hours of 10:00 p.m. and 12:00 midnight, or when working a shift that includes work between the hours of 12:01 a.m. and 4:00 a.m.

## **E. Stand-By**

### **1. Eligibility**

Regular, full- or part-time, non-exempt employees on stand-by duty are paid an amount established by Administrative Policy. To be eligible for Stand-by Pay, employees must meet the following criteria:

- Be able to respond to call-outs in a work ready condition within thirty (30) minutes of notification unless the Department Manager determines otherwise in accordance with department policy; Refrain from consuming alcoholic beverages or using any intoxicant, including prescribed or over the counter substances, that may impair one's ability to satisfactorily perform required job duties; and
- Be accessible by phone or any other communication device provided by the City.

### **2. Compensation**

Time spent on stand-by duty does not count as hours worked for overtime purposes; however, the pay for stand-by duty is counted as wages for the purpose of calculating an employee's regular rate of pay for overtime purposes. Stand-by Pay will not be earned in conjunction with any other type of compensation such as regular pay, shift differential, overtime, Call-back, long-term disability, and/or worker's compensation. Stand-by Pay ends and Call-back Pay begins when a call for service is received. Call-back Pay ends and Stand-by Pay resumes when the call is completed or if the call lasts less than two (2) hours. Stand-by Pay resumes when the Call-back minimum of two (2) hours expires or when the employee's regularly scheduled shift begins.

Employees on paid or unpaid leave do not receive Stand-by Pay, except when a department authorizes an employee on holiday leave to receive Stand-by Pay in order to meet the needs of the City.

### **3. Selection and Scheduling**

To participate in the Stand-by Pay Program, eligible employees are required to have the appropriate skills, knowledge, and abilities as determined by City Management, to provide appropriate services satisfactorily. Satisfying the needs of the City and its citizens will be Management's first priority. Qualified employees must be able to satisfactorily perform the essential functions of the job with or without accommodation.

Stand-By shall be fairly distributed among all eligible employees. Stand-By schedules may be changed to meet the needs of the City. If there are two or more participants within the same work group, the Manager or Supervisor shall evenly distribute Stand-By assignments on a rotating basis.

Participating employees shall consult the stand-by duty schedule prior to requesting leave. If a participating employee requires leave during an assigned stand-by duty period, he or she shall provide a replacement and notify the Supervisor or Manager within a time limit designated in advance by the Department Manager or designee.

#### 4. Department Guidelines

If a participating employee does not respond to a call for service within a time period designated by the Department without a verifiable, valid excuse, the employee will forfeit Stand-by Pay for that shift and may be subject to disciplinary action.

If an employee has concerns regarding his or her eligibility, assignment, or scheduling, the employee must report the problem to his or her Supervisor or Manager in accordance with the Personnel Complaint Resolution Process. (See Rule 4. Section 406. D.)

Stand-by Pay is not an entitlement. All stand-by hours must be recorded on time sheets and in the payroll system as "SB."

Guidelines developed to accommodate work situations unique to a department or division must comply with the Fair Labor Standards Act and City of Tempe Personnel Rules and Regulations.

#### **F. Call-Back**

Regular, full- or part-time non-exempt employees called back to work after their scheduled hours have ended receive a minimum of two (2) hours pay at overtime rates. However, non-exempt employees who are called at home to correct a problem that does not require them to leave their place of residence receive one (1) hour of pay at the overtime rate or the actual time worked, whichever is greater. Calls requiring work of seven (7) minutes or less, including the call itself, are not subject to Call-back Pay. Such time and pay do not count towards satisfying their normal work schedule. Premium pay received for Call-back Pay is included in the calculation to determine an employee's regular rate of pay for overtime purposes.

Employees called back to the work site because of their own negligence (i.e., due to the improper care and use of City equipment, failure to complete reports before leaving for the day, etc...) shall be compensated for actual time worked. Employees shall be compensated for thirty (30) minutes of travel time from the time they are called out. Travel time is included in the minimum two (2)-hour guarantee and will be paid in

addition to actual hours worked only if the total work hours plus the allowed travel time exceed the minimum guarantee of two (2) hours.

An employee may not be considered on more than one (1) Call-back at a time for compensation purposes. When Call-back hours overlap the employee's normal work schedule, the premium pay ends when the two meet (if the two (2)-hour minimum guarantee is satisfied), and hours thereafter are paid as actual time worked. However, employees must work their regularly scheduled number of hours per workweek (forty (40) hours in most cases) to be eligible for Call-back Pay.

## **G. Compensatory Time**

Department Managers may grant Compensatory Time to non-exempt employees for hours worked in excess of the established work period or work schedule. When granted, the Compensatory Time must be administered in accordance with the following criteria established by the Fair Labor Standards Act.

### **1. Memorandum of Understanding and Acceptance**

No special action is required for employees hired on or before April 14, 1986. Approval and adoption of this Compensatory Time policy shall constitute employees approval.

Acceptance of this Compensatory Time policy is a condition of employment for all employees hired on or after April 15, 1986. Newly hired employees are in-formed of this policy and are required to execute a Memorandum of Understanding and Acceptance. Failure to do so is grounds for non-hire.

### **2. Rate of Accrual**

For each hour worked in excess of the established work period or schedule, employees receive one and one-half (1.5) hours of Compensatory Time.

### **3. Maximum Accrual**

Employees working forty (40) hours per week may accrue up to 240 hours of Compensatory Time, which equates to 160 hours of actual overtime worked. Public safety personnel (sworn Police and Fire employees) may accrue up to 480 hours of Compensatory Time, which equates to 320 hours of overtime worked.

### **4. Use of Compensatory Time**

Employees may use their Compensatory Time at their discretion, pending approval by their Supervisor. The City may also require employees to accept cash payment instead of receiving Compensatory Time.

## **H. Exempt Time**

Exempt/Overtime Ineligible employees (employees exempt from provisions of the Fair Labor Standards Act) may on occasion receive informal paid leave called exempt time for time worked in excess of their established work schedules. Exempt time is given at the discretion of the Department Manager and is not hour for hour. Exempt time is based on an informal agreement between the employee, Supervisor and Department Manager for which the employee has no claim or property rights.

## **I. Holiday Work**

### **1. Non-Exempt Employees**

Non-exempt employees who work on a city recognized holiday may be given a substitute day off during the same pay-period as the holiday. Employees who do not receive a substitute day off receive either one and one-half (1.5) times their regular rate of pay or one and one-half (1.5) hours of Compensatory Time in addition to their Holiday Pay for each hour worked.

### **2. Sworn Personnel**

Sworn law enforcement Commanders who cannot be given a substitute day off may receive a stipend as established by the Police Chief's Administrative Policy.

### **3. When Holiday Falls on Non-Workday**

Non-exempt and exempt employees will be given a substitute day off with pay if operationally possible when a holiday falls on a non-work day. The substitute day is taken during the same pay period as the holiday. If the employee does not take a substitute holiday day off, he or she will receive one (1) day's pay at his or her regular rate (not overtime) in compensation for the holiday.

### **4. Fire Personnel**

Non-exempt Fire employees working a fifty-six (56)-hour workweek are paid for 11.2 hours at one and one-half (1.5) times their regular hourly rate for each holiday in lieu of time off. Exempt Fire employees on a forty-eight (48)-hour workweek will be given a substitute day (8 hours) off with pay if operationally possible. If employees cannot be granted a substitute day, they will receive one (1) day's pay (eight (8)-hours) at their regular rate (not overtime) in compensation for the holiday.

## **J. Temporary Detail**

Employees may be temporarily assigned to a higher-grade classification upon recommendation of the Supervisor and with approval of the employee and Department Manager. Eligible employees shall receive a minimum of five percent (5%) above their regular salary for the duration of

the Temporary Detail. In special circumstances, a Department Manager may authorize the placement of the employee at the minimum of the salary range for the higher classification based upon the scope and degree of the duties performed and the duration of the assignment.

The employee must fully perform the duties and responsibilities of the higher classification for the duration of a work shift to receive Temporary Detail Pay. Employees providing emergency services shall be paid Temporary Detail Pay if they work four (4) hours or more in a higher-classified position.

Temporary Detail Pay is limited to six (6) months. An extension may be requested in writing to the Human Resources Manager. Human Resources must be notified of all Temporary Detail assignments lasting longer than two (2) pay periods.

#### **K. Special Assignment**

Employees in the Police and Fire Departments may be assigned temporarily by their Manager to positions outside the classified service.

Special Assignments are for indefinite periods of time; and selection, assignment and reassignment are not appealable under Section 406 of these rules.

Employees on Special Assignment lose no rights or entitlements held in their previous, regular positions.

Employees on Special Assignment receive assignment pay that is immediately discontinued when the employees return to their regular positions.

For training purposes, an employee may be placed in a Special Assignment position for up to six (6) months with approval of the employee and the Department Manager. The employee shall not be entitled to or receive assignment pay. If the training assignment exceeds six (6) months, the employee shall receive assignment pay beginning with the 181st day. The employee shall receive credit for time served in a training assignment and no employee shall be required to serve more than one training assignment for each Special Assignment position.

#### **L. Expedited Plan Review Pay**

Regular, full-time exempt Development Services Department employees who perform additional weekend work that satisfies the criteria established by the Development Services Manager may receive a stipend as established by Administrative Policy.

#### **M. Tool Allowance**

Regular employees who perform work that requires them to provide his or her personal tools may submit proof of purchase receipts for

reimbursement for purchased tools. The annual maximum is established by Administrative Policy for each participating department.

**N. Uniform Allowance**

Regular employees who perform work that requires an employee to wear a uniform and/or safety shoes may be provided with a uniform and/or safety shoes or an allowance as established by Administrative Policy for each participating department.

**O. Vehicle Allowance**

The City provides a vehicle allowance, a leased car, or a "Take Home Car" to eligible elected officials, City Council appointees, and staff positions based on job duties and responsibilities as determined by the City Manager.

**P. Bilingual Pay**

Regular and temporary employees in a position that requires significant (defined as regular and frequent) or occasional interaction with the public using a language other than English may receive Bilingual Pay as established by Administrative Policy. Eligible employees must receive authorization from their Department Manager and successfully complete the required competency examination for their position. Employees who participate in the program may be required to be re-certified at the discretion of their Department Manager. Employees who do not successfully pass the competency examination will be removed from the program and their Bilingual Pay will be discontinued. Employees must wait sixty (60) days before re-testing.

Employees are not eligible to receive additional compensation for speaking additional languages. Compensation for part-time employees will not be pro-rated. Employees on extended paid or unpaid leave will not be paid bilingual pay. Compensation will be discontinued once an employee's participation is no longer authorized by the Department Manager; or the employee has voluntarily withdrawn from the program; or has been transferred, promoted, or demoted to a position that no longer requires interaction with the public in a language other than English.

Employees who participate in the program must be available on a regular basis and may be required to be available for standby and/or Call-back situations during non-working hours.

**Q. Hazardous Material Pay (HAZMAT)**

Regular employees in a position that requires a response to hazardous material calls may receive a monthly stipend as established by Administrative Policy for each participating department. Eligible employees must receive authorization from their Department Manager and/or Supervisor and must successfully complete any and all federal,

state and City training requirements, obtain any and all required certifications, and complete continuing education requirements.

**R. Technical Rescue Technician Pay (TRT)**

Regular, non-exempt Fire Department employees may receive a monthly stipend for TRT Pay. Eligible employees must obtain approval for TRT Pay from the Department Manager or the Battalion Chief responsible for special operations. Eligible employees must acquire and maintain all required certifications and complete any annual continuing education requirements.

**S. Exceptional Performance Reward**

Department Managers may reward a regular employee who has performed exceptionally by granting the employee a day off with pay.

## **Section 205: Job Sharing, Regular Part-time, Alternative Work Schedules and Telecommuting**

### **A. Job Sharing/Regular Part-Time Employment**

#### **1. Establishing Position**

Departments wanting to establish a Job Sharing position shall submit a memorandum to the Human Resources Manager identifying the position to be Job Shared, including information regarding the shared job duties and the proposed number of hours to be worked by each Job Sharing employee.

#### **2. Benefits**

Benefits allotted to regular, full-time positions shall be prorated to each Job Share/regular part-time employee. An employee shall be assigned to one of two part-time benefit programs<sup>1</sup> based on the number of hours regularly worked per week. Benefits calculated on salary (i.e., life insurance and long-term disability) are based on the employees' prorated wages.

#### **3. Probation**

Newly hired Job Share employees serve an initial six-month probationary period. Classification, compensation, and pay increases are determined the same as for all regular employees of the City. (Also see Section 306. Probation.)

#### **4. Leave and Holiday Pay**

Leave time and Holiday Pay shall be prorated to each Job Share/regular part-time employee. An employee shall be assigned to one of two part-time leave and holiday programs, based on the number of hours regularly worked per week. When a holiday falls on a scheduled workday, each Job Share/part-time employee receives prorated Holiday Pay based on his or her assigned benefit program (PT twenty (20) = four (4) hours and PT thirty (30) = six (6) hours). When a holiday falls on a non-scheduled workday, the Job Share/part-time employee receives his or her assigned part-time Holiday Pay.

### **B. Alternative Work Schedules**

Departments wanting to establish alternative work schedules for non-exempt/overtime eligible regular employees shall submit a "Request for Alternative Work Schedule" form to the Accounting/Payroll division of Financial Services identifying the affected position and the modified work period. In accordance with the Fair Labor Standards Act (FLSA), the alternative workweek shall be any fixed and regularly recurring period of seven (7) consecutive twenty-four (24)-hour days. Once the employee's workweek is established, it remains fixed.

It may be changed only if the change is intended to be permanent and is not designed to avoid the overtime requirements of the FLSA. For this reason, an employee with an alternative work schedule such as a 9/80 may not deviate from his or her schedule if it means working more than forty (40) hours in one designated workweek. Alternative work schedules may be revoked at the discretion of the employee or his or her Supervisor at any time. The Supervisor shall notify payroll in writing when an employee returns to a regular work schedule.

When a holiday falls on a scheduled workday for an employee on an Alternative Work Schedule, the employee receives Holiday Pay for the number of hours regularly worked. When a holiday falls on a non-scheduled workday, the employee receives a substitute day off with pay or Holiday Pay for the number of hours regularly worked.

### **C. Telecommuting**

Telecommuting, working at home or at a site other than the central workplace, is an alternative work arrangement that the City of Tempe may offer to some employees when it would benefit the City, the citizens we serve, and the employee.

Telecommuting does not change the basic terms and conditions of employment with the City. It is a management option, not an employee entitlement. It is intended to enhance productivity, creativity, public service, and to reduce the number of employee trips and/or operating costs.

#### **1. Participation**

- a. Regular employees, who have successfully completed their original probation and who have not had any disciplinary actions during the past twelve (12) months, may apply to participate.
- b. The Department Manager has the right to determine which positions are suitable for telecommuting, to refuse to make telecommuting available to any employee, and to terminate a telecommuting arrangement at any time.
- c. Telecommuting is voluntary unless the employee was hired for a position specifically designated as telecommuting only. An employee may terminate the telecommuting arrangement at any time by notifying his or her Supervisor in writing of the intent to do so.
- d. The employee may begin telecommuting after both parties sign a Telecommuting Agreement available on the Human Resources Intranet website at <http://www.tempe.gov/hradmin/hrforms.htm>.

#### **2. Program Principals**

- a. The employee's compensation, consideration for promotion, benefits, work status, and amount of time he or she is expected to

work per day or per pay period will not change due to participation in the Telecommuting Program.

- b. The employee's at-home workspace will be considered an extension of the City's workspace. Therefore, the City will continue to be liable for work-related accidents or injuries that occur while telecommuting during the employee's agreed on work hours. The City assumes no liability for injuries occurring in the employee's at-home workspace outside the agreed on work hours. In the case of an injury sustained while telecommuting, the employee will immediately report the injury to his or her Supervisor pursuant to applicable City policies. To ensure that safe working conditions exist, the City of Tempe retains the right to make on-site inspections.
- c. It is the City's intent that participation in the Telecommuting Program be based on a relationship of trust between the telecommuting employee and the City. Therefore, there will be no citywide limit on telecommuting schedules in terms of how often or on which days of the week the employee telecommutes.
- d. The specific schedule and frequency of telecommuting shall be based on the needs of the work unit and the City, and the amount of the employee's work that is suitable for telecommuting. The telecommuter and his or her Supervisor, with approval of the Department Manager, are responsible for establishing a mutually acceptable telecommuting schedule, and revising it as needed.
- e. Additionally, in what way and how often the telecommuter will communicate with his or her office, will be established by the telecommuter and his or her Supervisor and will be revised as necessary.
- f. The City will reimburse the telecommuter for the cost of work-related long distance telephone calls on a monthly basis, upon submission of a copy of the telephone bill and explanation of the reimbursable calls. Except as set forth in this program, telecommuters will bear the cost of all incidental expenses that may result from telecommuting.
- g. Telecommuters are responsible for protecting City information in their possession, or accessible through the use of equipment in their possession, regardless of the work location. The telecommuter may not take restricted access information, such as payroll records, to an alternative work location without the written consent of his or her Supervisor.
- h. Telecommuting is not a substitute for dependent care. The telecommuting employee must not provide primary care for a child less than twelve (12) years of age during at-home working hours. If

the child(ren) is (are) in the home during the telecommuters working hours, some other individual must be present to provide primary care for the child(ren). However, if a child less than twelve (12) is ill, the telecommuter may, on a temporary basis, provide primary care for that child, subject to approval of his or her Supervisor. Telecommuters are prohibited from providing primary care for an adult who is unable to care for his or herself.

- i. The telecommuter will work at home during the hours agreed on by the telecommuter and his or her Supervisor. Changes to this schedule will be reviewed and approved in advance by the telecommuter's Supervisor.
- j. The telecommuter will be as accessible as his or her on-site counterparts during agreed on regular business hours, regardless of the work location. Telecommuters must notify his or her office if they leave their telecommuting location.

### 3. Equipment

- a. City-provided equipment is not an entitlement of telecommuting. Employees who work at home will be responsible for absorbing any costs related to remodeling and initial set-up of the workspace. The City will not provide office furniture.
- b. Employees may be provided, at the Department Manager's discretion, with office equipment, (e.g., computer software, modem, printer, and telephone access line). Such equipment will remain the property of the City of Tempe, and may not be used for personal purposes. Maintenance of City provided equipment will be the responsibility of the telecommuter. Repair of City equipment will be the responsibility of the City.
- c. Software owned by the City of Tempe may not be duplicated. To ensure hardware and software security, all computer equipment must be approved by the Information Technology Department (ITD).
- d. Office supplies will be provided by the City and should be obtained during the telecommuter's in-office work period. Out-of-pocket expenses for supplies normally available in the office will not be reimbursed.
- e. Unless otherwise agreed to in writing prior to any loss, damage or wear, the City will not assume liability for loss, damage or wear of employee owned equipment.

## Rule 3

### Section 301: Requirements for Original Employment

#### A. Citizenship

All applicants for City employment shall present evidence of United States citizenship or documentation establishing both identity and work authorization in accordance with the 1996 Illegal Immigration Reform and Immigrant Responsibility Act. Law enforcement employees must be Arizona Peace Officer Standards and Training (AZPOST) Board certified. All law enforcement applicants shall be United States citizens according to the AZPOST rule and procedure manual #R13-4-105 A.1, which states the following:

*“Prior to appointment or attending an academy a person shall meet the following minimum qualifications: ‘The person shall be a United States Citizen.’*

#### B. Position Requirements

Council appointees and Department Managers shall be residents of Tempe within a time period after their appointment date designated by the City Council or the City Manager, respectively.

All other City employees shall reside within a reasonable radius of the City. A reasonable radius is defined as that distance which does not prevent employees from meeting the requirements established for their job by the Department Manager.

#### C. Physical and Mental Fitness

All applicants for City employment shall be of sufficient mental and physical condition to satisfactorily perform the essential functions of the position for which they have applied. Reasonable accommodations for a qualified individual with a disability shall be provided in accordance with the Americans with Disabilities Act unless such accommodation would impose an undue hardship on the City. The physical and mental qualifications of persons entering City employment may be evaluated by physicians approved by the City. (See also Section 303. Examination.)

Sworn Police employees and Fire employees who belong to the Arizona Public Safety Retirement Plan must continue to meet the physical and mental requirements for their job classification as defined by administrative policy. (See also Section 303. Examination.)

#### D. Hiring of Relatives

Relatives are defined as follows:

Spouse

Domestic Partner\*

Uncle

Parent (in-law & step)

Child (in-law & step)	Sister (in-law, half & step)
Grandparent	Brother (in-law, half & step)
Grandchild	Nephew
Aunt	Niece

\* Domestic Partner is defined as a person of the same or opposite sex whom:

1. Shares your permanent residence, and
2. Has resided with you for no less than one (1) year, and
3. Is no less than 18 years of age, and
4. Is not a blood relative to which marriage would be prohibited in Arizona, and
5. Is financially interdependent with you and has proven such by at least one of the following:
  - a. Common ownership of real property;
  - b. Common leasehold interest in such property;
 OR two of the following:
  - c. Common ownership of a motor vehicle;
  - d. Joint bank or credit account;
  - e. Designation as a beneficiary for life insurance, retirement benefits, or under your partner's will;
  - f. Assignment of a durable power of attorney.

In order to include a domestic partner in the definition of a relative, the employee must submit to Human Resources a completed Domestic Partner Affidavit.

#### **E. Relatives in the Workplace**

Relatives are not allowed to work for the same immediate supervisor or have reporting authority or administrative responsibility over one another in the chain of command. If such a situation is created by marriage, or by the establishment of a domestic partner relationship, one party shall submit a request to the Human Resources Manager for transfer. If a transfer cannot be made within ninety (90) days, one employee must resign from City service and may choose to be placed on a lay-off list.

#### **F. Temporary Employment**

No parent, spouse, domestic partner, or child of a regular employee or City Councilperson can be hired as a temporary employee within the same department. The following exceptions are exempt from this restriction:

##### **Exceptions**

1. Parents, spouses, domestic partners, children of regular employees or City Councilmen enrolled in educational programs such as Cooperative Office Education, Work-study, or University internships.
2. City of Tempe employees who retired in good standing from the City and who are spouses, domestic partners, or parents of active, regular employees.

Temporary employees who were hired prior to a relative that was hired as a regular employee will not be asked to resign.

#### **G. Loyalty Oath**

Every City employee shall take the oath or affirmation as prescribed by state law.

#### **H. Background Investigations**

The Human Resources Manager or designee and the City Manager shall, in accordance with state and federal privacy and security laws, examine criminal history information from and through the Arizona Department of Public Safety and the Federal Bureau of Investigation and driving records through the Arizona Department of Motor Vehicles, concerning any employee or candidate for appointment to City Service and prospective volunteers who will either be in direct contact with minors or incapacitated adults while not under direct supervision of a regular City employee or a prospective public safety volunteer as authorized by A.R.S. §41-1750 and Tempe City Code §2-138.

## **Section 302: Recruitment**

### **A. Human Resources**

Vacancies in the Classified Service may be announced on official bulletin boards throughout City departments, and shall be announced in the “Job Openings” and “City Information” folders under “All Public Folders” in the City’s email system. Other methods of recruitment are used as deemed appropriate by the Human Resources Manager.

All classified positions, except Police Officer, Firefighter, and other positions that require unique qualifications, as determined by the Human Resources Manager or City Manager, shall be recruited using a competitive open internal recruiting process and shall be overseen by the Human Resources Department. All classified positions above entry level within the classification series shall be recruited using a competitive open internal recruiting process.

### **B. Applicant**

Applicants must submit a completed City of Tempe application form. Failure to complete the "Application for Employment" form as directed may result in disqualification. Completed application forms become the property of the City of Tempe and are not returned to the applicants.

Any application may be rejected for the following reasons:

1. The applicant appears not to possess the qualifying experience and training required for the position.
2. The applicant has made any misstatement of any material fact.
3. The applicant has practiced any deception or fraud in his/her application.
4. The applicant has been convicted of a crime involving moral turpitude or has been convicted of a crime that is directly related to the duties and responsibilities of the desired position. (For example, an applicant has applied for a position as Accounting Manager, but was convicted for embezzlement.)

## **Section 303: Examination**

### **A. Selection**

Selection techniques used by the City are impartial, practical, and job-related. The examinations used may include but are not limited to oral, written, performance, physical/mental fitness, and training/experience evaluations. In addition, evaluation of past work performance, work samples, personal interviews, and background investigations may be used in the selection process.

### **B. Disabilities**

The definition of "disability" with respect to an individual is:

1. A physical or mental impairment that substantially limits one or more of the major life activities of such individuals;
2. A record of such impairment; or
3. Being regarded as having such impairment.

The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness. "Qualified individual with a disability" means a person with a disability who with or without reasonable accommodation can satisfactorily perform the essential functions of the position that the individual holds or desires.

Alternate job-related examinations will be used where possible and appropriate to accommodate disabled candidates. Candidates with a disability may use auxiliary aids such as readers or qualified sign language interpreters while participating in any selection examination.

### **C. Veterans**

Any veteran who served on active duty for six (6) months or longer in any branch of the United States military, has an honorable discharge, and earns a passing score on an entrance employment examination shall be given an additional five (5) points. Veterans entitled to compensation for a service-connected disability are given a total of ten (10) preference points.

Proof of eligibility, a DD214 or certification from the Veteran's Administration, for veteran and/or disability preference points must be submitted at the time of application or examination per Arizona Revised Statute §38-492.

Per Arizona Revised Statute §38-492, a veteran's spouse is given five (5) preference points on a passing score on an entrance examination if the veteran, during active duty as a member of any branch of the United States armed forces, is either missing in action, captured, or forcibly detained by a foreign power; or has a total permanent service-connected

disability; or died while having such disability. Proof of eligibility (i.e., DD214 or certification from the Veteran's Administration) must be submitted at the time of application or examination.

**D. Mental and/or Physical Examinations**

Appointment to City service is subject to satisfactory completion of mental and/or physical examination prior to employment. Examinations are given by a medical examiner designated and paid for by the City. The applicant shall pay the cost of any additional tests, analyses or examinations not required by the City. (See also Section 301.C. Requirements for Original Employment.) The probationary period is considered an extenuation of the examination process. (See also Section 306. Probation.)

## **Section 304: Selection**

The City of Tempe Charter in Article IV. Section 4.02(a) states:

All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

This section of the Personnel Rules ensures that only factors pertaining to an individual's ability to successfully perform a job shall be considered in employment and promotional decisions.

### **A. Employment Lists**

The six (6) types of employment lists are:

1. Voluntary transfer
2. Involuntary demotion
3. Lay-off
4. Internal
5. Reinstatement
6. External

(See also Sections 403: Lay-off; 305: Reinstatement; 401: Transfer; and 402: Demotion.)

### **B. Employment List Duration**

The duration of internal and external lists is determined by the Human Resources Manager at the time of recruitment and may be extended upon approval of the Human Resources Manager. When an existing eligibility list has three or fewer names, the Department Manager may elect to retire the list with City Manager approval.

### **C. Internal Recruitment**

Regular employees, who have completed their initial probationary period, may apply for positions posted as internal recruitments. Regular employees may apply for positions posted as external recruitments at any time. Current temporary employees who have completed six (6) continuous months of full-time employment within the same department may apply for the position they are currently occupying when the position is posted as an internal recruitment. An employee's name shall be removed from an internal list upon termination of employment with the City.

### **D. External Recruitment**

Qualified candidates shall be listed alphabetically on all employment lists, and selection may be made from anywhere on the list. A department may select candidates off an existing unexpired external eligibility list for a

higher level classification within the same classification series than the position that is being recruited within the same classification series. For example, a department may interview and/or hire a candidate on an existing unexpired external eligibility list for an Administrative Assistant II even though the open position is for an Administrative Assistant I.

When an internal recruitment establishes an eligibility list with three (3) or fewer names, the Department Manager may elect to supplement that list through an external recruiting process with City Manager approval.

#### **E. Appointment Priority**

Vacancies in the classified service are filled by one of the following methods listed in order of priority:

1. Involuntary transfer
2. Involuntary demotion
3. Appointment from lay-off lists
4. Appointment from internal lists
5. Appointment from external and reinstatement lists

## **Section 305: Reinstatement**

### **A. Reinstatement List**

Regular employees who resign from City service after completing their probationary period may request in writing to the Human Resources Manager to be placed on a reinstatement list. Upon approval of the Department Manager, an employee's name shall be put on a reinstatement list(s) for the position occupied at time of resignation or lower position classes within the same classification series contingent upon the following:

1. Employees may be reinstated within one (1) year of their termination date.
2. Candidates on a reinstatement list may be subject to further testing.
3. Employees who accept reinstatement to any position in City service have their names removed from all other reinstatement lists.
4. Employees who resign during their promotional probationary period are not eligible for reinstatement to that position or class. Employees may be reinstated to the position occupied before promotion.
5. Employees reinstated after thirty (30) days, but less than one year, shall be of sufficient mental and physical condition to be able to meet the performance requirements of the position for which they may be reinstated. The physical and mental requirements of persons re-entering City employment may be evaluated by physicians approved by the City in accordance with Rule 3. Section 301. C.

### **B. Probation**

Employees hired from a reinstatement list are classified as new employees and may serve the required probationary period at the discretion of the Department Manager, but shall not be eligible for an end of probation step increase. However, reinstated employees are eligible to apply for internal recruitments.

### **C. Salary and Benefits**

Employees reinstated within one (1) year of their resignation date are considered to have continuous service for purposes of benefits and salary. Sworn Police personnel shall not have their seniority restored for purposes of shift selection. Reinstated employees shall have twenty percent (20%) of their unreimbursed medical leave, and their vacation leave accrual rate in effect at the time of resignation, restored. Employees who resign with less than ten (10) years of service shall not have their Mediflex balance reinstated. Reinstatement after thirty (30) days requires employees to serve the required waiting period for insurance.

**D. Armed Forces**

An employee who resigns from City service to enter active duty in the armed forces, voluntarily or involuntarily, will be covered under the Uniformed Services Employment and Reemployment Rights Act. (See Section 308.)

**E. Arizona State Retirement System (ASRS)**

Employees who retire under one of the state sponsored retirement plans are not covered under the reinstatement provision.

## **Section 306: Probation**

### **A. Classified Service**

New employees hired into a classified position shall satisfactorily complete a trial work period referred to as Probation and are only considered classified employees after the satisfactory completion of their probationary period.

Probation for new or promoted classified employees (except for newly hired Police Officers and Firefighters) is six (6) months. The probationary period may be extended by the Department Manager not to exceed an additional six (6) months. When performance issues warrant extension of an employee's probationary period, a Memo to File, that includes a detail of the issues, and a Personnel Action Request (PAR) form, that indicates the extension of the probationary period, shall be completed and forwarded to Human Resources to be placed in the employee's personnel file. Extension of probation shall be for either three (3) or six (6) months, depending on the circumstances. Probationary employees are not eligible for step pay increases.

### **B. Police and Fire Personnel**

Police Officers and Fire Fighters shall complete a probationary period of twelve (12) months following graduation from the recruit training academy. Probation may be extended up to an additional six (6) months with approval by the Department Manager. Probation for promoted sworn Police employees and Fire employees working 56-hour workweeks is six (6) months. The probation for these promotional employees may be extended six (6) months with approval of the Department Manager.

Excused absences up to twenty (20) working days, [ten (10) working days for Fire employees working 56-hour workweeks], including industrial leave, are credited toward completion of the probationary period. Absences in excess of twenty (20) days are not credited toward the completion of the probationary period.

### **C. Salary Increase**

Regular, classified employees whose performance meets job standards shall receive a step increase upon successful completion of his or her original probationary period, at the discretion of the Department Manager. (See Section 202. E.) The only action required is the completion of a Personnel Action Request (PAR) form that indicates completion of the probation and the associated five percent (5%) salary increase. The PAR form must be forwarded to Human Resources. The effective date of the step increase shall be as follows:

1. The first day of the pay period when the probation completion date falls within the first seven (7) days of a pay period; OR

2. The first day of the pay period following the probation completion date when the probation completion date falls within the last seven (7) days of a pay period.

#### **D. New & Promoted Employees**

New employees may be suspended, demoted, dismissed or subject to a pay reduction without the right of an administrative review or appeal to the Merit System Board during the entrance probationary period.

A promoted employee who performs unsatisfactorily or voluntarily elects to return to his or her former position before completion of the promotional probationary period may do so upon approval of the Department Manager. The Department Manager, or designee, will notify Human Resources prior to completion of an employee's unsuccessful promotional probationary period. The employee shall return to the rate of pay he or she was receiving prior to promotion, including any cost-of-living adjustments that may have occurred. Probationary employees demoted to a former position have the right to an administrative review, but may not appeal to the Merit System Board. (See also Section 406. Disciplinary Action/Employee Performance Improvement Process.)

A promoted employee who fails to complete his or her probationary period due to a lay-off is entitled to return to the position he or she held prior to his or her promotion. (See also Section 403. Layoff.)

### **Section 307: Employee Status and Address Changes**

Employees are required to notify their Department Manager or the Department Manager's designee, their supervisor, and Human Resources if they have a change of residence or telephone number within ten (10) business days.

Employees are required to notify Human Resources if they have a change in domestic partnership, marital status (marriage, divorce, widowed) or change in number of dependents within thirty (30) calendar days. New dependents not enrolled in the employee's insurance benefits within thirty (30) calendar days may be enrolled during the next open enrollment period.

## **Section 308: Uniformed Services Employment and Reemployment**

Regular employees who enter into service in the uniformed forces, voluntarily or involuntarily, shall be entitled to return to their positions or to positions of like seniority, status, and pay in accordance with the Uniformed Services and Reemployment Rights Act. (See Section 305. D.)

## **Section 309: Release of Employment Information and Public Access to Personnel Files**

### **A. Non-Sworn Police Personnel**

All inquiries requiring a response for information on current or former employees or applicants must be referred to the Human Resources Manager or designee. Departments shall not release any information on any current or former employee of the City, and applicant for employment, unless first authorized by the Human Resources Manager or designee, or as required by law.

The Human Resources Manager or designee can release only specific types of information on current or former employees of the City.

The following information is public record and shall be disclosed upon request:

1. Name
2. Job Title
3. Department
4. Supervisor's Name
5. Date(s) of Employment
6. Salary

Arizona Revised Statute (ARS 39-123) prohibits the disclosure of the home address or home telephone number of a current Prosecutor, except as authorized by law.

In special situations, the Human Resources Manager, or designee, may release additional information on a need-to-know basis where a current or former employee may present a danger to others or a danger to property. Information pertaining to driving records and drug and alcohol testing of employees who are required to have Commercial Drivers Licenses shall be released in accordance with 49 CFR §382.413, §391.23 and §40.81.

### **B. Sworn Police Personnel Only**

In addition to items 1-6, Arizona Revised Statute (ARS 41-1828.01) requires the City of Tempe to advise a requesting Arizona law enforcement agency of an employee's or an applicant's known misconduct in violation of the rules for retention. The City of Tempe Police Department's Internal Affairs Bureau will be responsible for responding to requests.

UNDER NO CIRCUMSTANCES SHALL AN EMPLOYEE'S ORIGINAL PERSONNEL FILE BE SHOWN TO ANY OTHER AGENCY'S REPRESENTATIVES; NOR WILL COPIES OF THE MATERIAL CONTAINED IN AN EMPLOYEE'S PERSONNEL FILE BE PROVIDED

TO AN OUTSIDE AGENCY, UNLESS THE EMPLOYEE HAS SIGNED A WAIVER OR UNLESS REQUIRED BY LAW.

Arizona Revised Statute (ARS 39-123) prohibits the disclosure of the home address or home telephone number of a current peace officer except as authorized by law. This restriction also applies to a photograph of a peace officer who is serving in an undercover capacity or is scheduled to serve in an undercover capacity within sixty (60) days.

Any additional information that is required or requested by prospective employers, attorneys, law enforcement personnel, other state or federal agencies, the media, and any others should be referred to the Human Resources Manager or designee for review on a case-by-case basis.

## **Section 310: Drug-Free Workplace**

### **A. Policy/Philosophy**

The City of Tempe recognizes that the use of alcohol or drugs may inhibit a person from performing duties safely and effectively. It is the City's intention to maintain a safe, healthful, and productive work environment for all employees.

Employees are prohibited from possessing, purchasing, manufacturing, distributing, using, or selling alcohol, unauthorized drugs or controlled substances, abusable drugs or any other intoxicants on City property, while operating City equipment or while performing City duties unless specifically authorized to do so.

Employees, whose off-duty use or possession of alcohol or drugs adversely affects job performance, safety, or the City's reputation, shall be subject to disciplinary action up to and including termination.

As a condition of continued employment, an employee convicted under a criminal drug statute for conduct occurring in the workplace must report that conviction to his or her Department Manager no later than five days after such conviction.

### **B. Drug and Alcohol Testing and Responsibilities for Commercial Drivers License (CDL) Holders**

#### **1. Applicability**

This part is issued pursuant to the Federal Highway Administration's (FHA) Controlled Substances and Alcohol Use Rule (49 CFR, Sections 382, 391, & 40). The section's purpose is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or controlled substances by drivers of commercial motor vehicles and set forth CDL employer and employee responsibilities.

This rule shall apply to all employees who are required on a regular, intermittent, or occasional basis, to satisfactorily perform duties, which demand the possession of a Commercial Drivers License (CDL).

#### **2. Controlled Substances Tested for Under the Rule**

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines (including methamphetamines)
- Alcohol

City policy requires employees who use any prescribed or over-the-counter substance that may impair their ability to satisfactorily perform a safety-sensitive function, to notify their supervisor before starting their shift. The supervisor may require written notification by a physician stating that the drug does not affect the driver's ability to safely operate a commercial motor vehicle.

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time she or he is relieved from work and all responsibility for performing work.

Safety-sensitive functions shall include:

- a. All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- b. All time inspecting equipment, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- c. All time spent at the driving controls of a commercial motor vehicle in operation;
- d. All time, other than driving time, in or upon any commercial vehicle except time spent resting in a sleeper berth;
- e. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- f. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

### 3. Types of Tests Required

All persons covered under this section shall undergo a National Institute on Drug Abuse (NIDA) drug test for controlled substances. The following types of testing for controlled substances or the misuse of alcohol must be conducted:

#### a. Pre-employment/Pre-placement Testing

Before the first time a driver performs a safety-sensitive function for the City, he or she must undergo testing for controlled substances. Any potential driver who tests positive for controlled substances shall not be hired. Pre-employment testing also pertains to current employees who transfer or are promoted into a position covered by this policy. Any potential driver who refuses a pre-employment/pre-placement test shall not be hired.

#### b. Drug and Alcohol Testing Based on Reasonable Suspicion

When a driver, by observation or report of the driver's behavior, is reasonably suspected of prohibited conduct, the driver shall be ordered to submit to a controlled substances and alcohol test.

The decision to require a test for reasonable suspicion will be based upon objective observation, by one or more supervisors who have received reasonable suspicion training of at least sixty (60) minutes for alcohol misuse and sixty (60) minutes for controlled substances use, and who have been appropriately trained to determine if reasonable suspicion exists.

Reasonable suspicion shall be based on specific, describable observations concerning the appearance, behavior, and speech or body odors of the driver. Specific types of physical signs or behaviors that constitute grounds for reasonable suspicion may include:

- Slurred speech
- Odor of alcohol or marijuana on person
- Gazed or red eyes
- Dilated pupils
- Inability to walk a straight line
- Staggering
- Drowsiness
- Incoherent conversation
- Physical or verbal altercation
- Unexplained performance deterioration
- Increased carelessness
- Pattern absenteeism, which is defined as consistent use of sick leave on the first day of an employee's workweek or the last day of an employee's workweek, or before or after holidays
- Excessive absenteeism
- Inability to perform job functions
- Unusual or erratic behavior
- An accident or injury or history of accidents or injuries in which the actions of the employee apparently caused or cannot be discounted as having caused the accident or injury, or
- Any behavior, which is inconsistent with professional conduct on the job or which suggests any use of drugs or alcohol, which negatively impacts job performance.

The supervisor shall obtain the approval of his or her Department Manager or designee AND the Human Resources Manager, or designee, before referring any employee for reasonable suspicion drug and/or alcohol testing.

c. Post Accident Testing

A controlled substances and alcohol test shall be conducted within thirty-two (32) hours and eight (8) hours, respectively, on each driver of an accident involving a commercial motor vehicle when:

- 1) There is a loss of life, or
- 2) The driver receives a citation for a moving traffic violation arising from the accident, or
- 3) There is an injury requiring treatment away from the scene of the accident, or
- 4) A vehicle is required to be towed away from the scene, or
- 5) If it appears the drivers may have been at fault, when the actions of the employee apparently caused, or
- 6) Cannot be discounted as having caused, an accident.

This section does not require the delay of necessary medical attention for the injured people following an accident, or prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary care.

A driver who is subject to post-accident testing must remain readily available for such testing, or the City may consider the driver to have refused to submit for testing. The driver subject to post-accident testing must refrain from consuming alcohol for eight (8) hours following the accident, or until he or she submits to an alcohol test, whichever comes first.

If an alcohol test required by this section is not administered within two (2) hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight (8) hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record.

If a controlled substances test required by this section is not administered within thirty-two (32) hours following the accident, the employer shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered.

d. Random Testing

Random alcohol testing shall be administered at a minimum annual rate of ten percent (10%) of the average number of employees required to have a CDL for which this rule applies under B. 1.

Random controlled substances testing shall be administered at a minimum annual rate of fifty percent (50%) of the average number

of employees required to have a CDL for which this rule applies under B. 1.

The minimum percentage of testing may be changed when required by federal law. Random testing will be unannounced, will be performed at the time the driver reports to work, during the work day, at the end of the work day or while on call, and will be spread reasonably throughout the calendar year.

Drivers must report to the test site, accompanied by a supervisor, immediately upon being advised of their selection for a random test.

e. Return-to-Duty Testing

After engaging in prohibited conduct regarding alcohol and/or controlled substance use, the driver shall undergo a return-to-duty test indicating a breath alcohol concentration of less than .02, and/or a negative controlled substances test before returning to duty requiring the performance of a safety-sensitive function.

f. Follow-up Testing

Following determination that a driver is in need of assistance in resolving problems associated with alcohol misuse or controlled substance use, that driver is subject to unannounced follow-up alcohol and/or controlled substances testing as directed by the Substance Abuse Professional (SAP), which is defined as a drug and/or alcohol counselor as designated through the City's Employee Assistance Program (EAP).

The driver shall be subject to a minimum of six (6) follow-up tests for controlled substances and/or alcohol in the first twelve (12) months. Follow-up testing shall not exceed sixty (60) months from the date of the driver's return to duty.

4. Commercial Driver's License (CDL) Holder Responsibilities

a. Upon hire and before performing any safety sensitive function, each new CDL driver shall be provided training and materials regarding the Drug and Alcohol Testing Program. The materials cover the employer and employee responsibilities under the policy. In addition, each new driver is required to sign a CDL Alcohol and Drug Testing Training Form.

1) Each driver is required to notify designated City personnel within thirty (30) days of any State or local traffic violation (other than parking violations), for which the driver has been convicted or found responsible, or for which he or she has forfeited bond or collateral.

2) In addition, each driver shall furnish the City with a list of all violations of motor vehicle traffic laws and ordinances (other than parking violations) for which the driver has been found

responsible, or for which he or she has forfeited bond or collateral during the preceding twelve (12) months, but only if he or she did not provide each violation individually as specified in (1), above.

- 3) At least once every twelve (12) months, the Human Resources Department is required to inquire into the driving record of each driver the City of Tempe employs.

(a) Safe Driving Requirements

The City shall determine whether or not each driver meets the minimum requirements for safe driving, based on the information received as specified in (1.), (2.), and/or (3.) as stated above. The decision shall be based on any evidence that the driver has violated laws governing the safe operation of any motor vehicle, including speeding, reckless driving, and operating a vehicle while under the influence of alcohol and drugs. Employees may be subject to disciplinary action up to and including termination in accordance with Rule 4. Section 406. B.

(b) Medical or Physical Conditions of Drivers

If the City becomes aware of a driver who has any condition that may disqualify him or her from driving a Commercial Motor Vehicle (as per the physical qualifications for drivers in regulation 391.41), the City is required to notify the Arizona Motor Vehicle Division under Arizona Administrative Code R17-4-502. The driver may be required to receive a Skill Performance Evaluation Certificate from the State or Federal Motor Carrier Safety Administration before he or she may continue performing safety sensitive functions.

**C. Drug and Alcohol Testing and Responsibilities for Non-Commercial Driver's License (CDL) Holders**

1. Fitness for Duty Standards

For purposes of this policy, "under the influence of drugs" shall mean the presence of a controlled substance as reflected by a positive drug test. "Under the influence" of alcohol shall mean either obvious impairment due to alcohol consumption or a test result reflecting blood alcohol content of .04 or greater.

An employee who is using any prescribed or over-the-counter substance, which may impair his or her ability to satisfactorily perform his or her job duties, must notify his or her supervisor before starting work.

2. Types of Tests Required

a. Pre-employment/Pre-placement

All persons who have received a contingent offer of employment with the City of Tempe shall undergo a panel 5, non-NIDA drug test for controlled substances per the Drug-Free Workplace Policy. Employees hired from a reinstatement list shall also be screened. Temporary employees shall be screened every two (2) years.

Employees returning to an active status from inactive status due to leave under the provisions of the Family Medical Leave Act (FMLA), Long-Term Disability (LTD), or Industrial Accident Leave are exempt from this requirement.

Candidates shall be required to sign a "Pre-Employment Drug Screen Consent Agreement" and complete the screening within twenty-four (24) hours of the employment offer, or the offer shall be withdrawn. Candidates under the age of eighteen (18) are required to have a parent sign the consent form before screening will be administered. Candidates who refuse to submit to screening will be treated the same as a candidate with a positive drug screen.

Out of state candidates may complete their drug screen at an authorized drug testing facility approved by the Human Resources Department.

b. Reasonable Suspicion Standard for Drug/Alcohol Testing

As per City of Tempe Personnel Rule 4. Section 406.A.10, based on reasonable suspicion, any employee shall be required to undergo an intoximeter breath test, blood, urinalysis, hair, saliva or any other appropriate test to detect and substantiate the presence of drugs and/or alcohol.

Reasonable suspicion is based on, but not limited to, specific observations concerning the appearance, behavior, and speech or body odors of the employee. For specific types of physical signs or behaviors, which would constitute grounds for reasonable suspicion, see the Drug and Alcohol Testing and Responsibilities for Commercial Drivers (CDL) License Holders - Reasonable Suspicion (Section 310.B.4)

Supervisors may take into account statements from others.

Any employee reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work. The employee's supervisor shall be available to transport the employee to the drug-testing facility and home. The employee shall not be allowed to return to work until results have been obtained.

The employee shall be given an "Authorization for Drug/Alcohol Testing Form" to sign before the supervisor transports the employee for testing.

The employee shall undergo a panel 5 non-NIDA drug test. All test results shall be treated in accordance with reasonable standards of privacy, and shall only be disclosed to the Human Resources Manager or designee(s), and individuals as determined by the Human Resources Manager or designee.

c. Post-Accident Testing

A controlled substances and alcohol test shall be conducted within thirty-two (32) hours and eight (8) hours, respectively, on each driver of an accident involving a City of Tempe vehicle, excluding employees which drive Police and Fire Public Safety vehicles. A controlled substance and alcohol test may be conducted on employees who drive Police and Fire Public Safety vehicles at the Department Manager's discretion. To determine when a post-accident test should be administered, see the Drug and Alcohol Testing and Responsibilities for Commercial Drivers (CDL) License Holders Section.

**D. Disciplinary Action for Employees**

Any confirmed positive drug or alcohol test constitutes a violation of Rule 4. Section 406.A.10. The Department Manager shall determine the appropriate disciplinary action based on the facts of the situation.

Any employee who fails to timely report to his or her Department Manager his or her own criminal drug conviction shall be subject to discipline up to and including termination. Employees disciplined for the aforementioned violation are subject to Rule 4. Section 406.C. through G.

Refusal to undergo the testing when ordered, or any tampering, switching or adulterating of test samples shall be considered insubordination constituting a violation of Rule 4. Section 406.A.4. Refusal to undergo the testing process may result in termination.

Employees needing assistance in dealing with problems as a result of drug and/or alcohol use are encouraged to use the Employee Assistance Program (EAP) and health insurance plans, as appropriate, to obtain counseling and treatment. The City of Tempe is committed to providing reasonable accommodation, including rehabilitation, to those employees whose drug or alcohol problem classifies them as disabled under federal law, providing this disability does not prevent the employee from safely, efficiently and satisfactorily performing the essential functions of the job.

## **Rule 4**

### **Section 401: Transfer**

#### **A. Voluntary Transfer**

Employees may voluntarily transfer from one position to another within the same classification (e.g., Administrative Assistant I in one department to Administrative Assistant I in another department). The transfer must be in the best interest of the City or for the betterment of the employee. The hiring Department Manager must approve the transfer. The employee shall be on the appropriate eligibility list.

##### **1. Salary and Benefits**

Transferred employees retain their rate of pay. All medical leave, paid leave and benefit accruals remain the same.

##### **2. Option of Returning to Previous Position**

An employee who has transferred into a new position may voluntarily return to his or her previous position, if vacant, with the approval of the Department Manager.

#### **B. Involuntary Transfer**

Employees may be involuntarily transferred from one position to another within the same classification (e.g., Administrative Assistant I in one department to Administrative Assistant I in another department). The transfer must be in the best interest of the City or for the betterment of the employee. The hiring Department Manager and the City Manager must approve the transfer.

##### **1. Salary and Benefits**

Transferred employees retain their rate of pay. All medical leave, paid leave, and benefit accruals remain the same.

##### **2. Minimum Qualifications/Probation**

An employee who has been involuntarily transferred shall meet the minimum qualifications for the new position and may be assigned to probationary status at the request of the Department Manager.

#### **C. Administrative Transfer**

Employees may be administratively transferred from one position to another within the same classification or to a different classification with the same or lower salary range maximum.

If voluntary administrative transfers are offered to a group of employees within the same classification, employees electing not to participate may be subject to lay-off under Rule 4. Section 403. Employees who volunteer for an administrative transfer must meet the minimum

qualifications for the position for which they have applied. All other competitive recruitment, selection and hiring policies shall apply.

1. Salary and Benefits

Transferred employees retain their rate of pay. Employees transferred to a classification with a lower salary maximum shall have their salary frozen. The employee shall receive no salary increases until the salary range maximum of the new classification is higher than his or her salary. All medical leave, paid leave and benefit accruals remain the same.

2. Probation

Transferred employees may be placed on probation at the request of the Department Manager and are not eligible for an end of probation salary increase.

## **Section 402: Demotion**

### **A. Guidelines**

An employee may be voluntarily or involuntarily demoted from one position to another within the same classification series he or she currently occupies (e.g., Police Communications Dispatcher II to Police Communications Dispatcher I). The demotion must be made in the best interest of the City or for the betterment of the employee. The employee shall meet the minimum qualifications for the desired position if the desired position is outside the classification series of the position he or she currently occupies.

#### **1. Salary and Benefits**

Employees who have completed their initial probationary period and who receive a voluntary demotion shall retain their previous salary if it does not exceed the maximum for the new position. If the salary exceeds that level, employees shall receive a pay reduction to the new salary range maximum.

New employees who have NOT completed their initial probationary period and who receive a voluntary demotion shall be placed at the minimum of the salary range for the lower classification. If an employee has special qualifications, the Department Manager may approve a rate that is above the minimum of the salary range with City Manager approval. Paid leave accruals remain the same. Demoted employees who pass their original probationary period are ineligible for an end-of-probation increase.

#### **2. Probation**

Demoted employees may be assigned to probationary status for the new position at the request of the Department Manager.

Employees, who take a voluntary demotion and thereafter elect during their probationary period to return to the position classification they held prior to being demoted, may return to their previously held position, if vacant, with approval of their Department Manager.

## **Section 403: Layoff**

### **A. Guidelines**

A layoff may occur when one or more of the following conditions exist:

- lack of work or funds,
- contractual or technological changes,
- business necessity, or
- Other appropriate reasons as determined by the City Manager.

When it has been determined that a layoff is necessary, the selection of regular employees affected shall be based on seniority. For purposes of this policy, seniority is defined as total years of service (including years, months, and days) as a regular City of Tempe employee. Total years of service shall not include time worked prior to retirement from the City of Tempe when regular employees who retired from the City of Tempe are rehired. This exception does not include employees participating in a Deferred Retirement Option Plan (DROP). For sworn Police Officers and Sergeants, seniority is defined as consecutive years of service with the Tempe Police Department.

Regular, part-time employees shall have their years of service prorated based on the number of hours scheduled to work. If a full-time, regular position is open as a result of a layoff and the employee with the most seniority is a part-time regular employee, he or she shall adjust their hours to full-time or be placed on a layoff list.

When two (2) or more employees who were hired as regular employees on the same date occupy a position targeted for lay-off, time worked as a temporary employee in the position targeted for lay-off shall be included in their total years of service for purposes of determining seniority. A random drawing shall be held by the City Manager, or designee, in order to determine which employee shall be laid off when two (2) or more employees who were hired as regular employees on the same date and who do not have eligible temporary time to include in determining their total years of service, occupy a position targeted for lay-off. Non-essential, unclassified employees, as determined by the City Manager or designee (see Rule 1. Section 104), shall be laid off before any regular employees.

The Human Resources Manager or designee shall assign all classified positions to either a job family or be designated as a single classification. The City Manager or designee shall determine the specific position, job family and/or single classification targeted for layoff. Employees with the least seniority within a targeted job family or single classification shall be laid off before employees with more seniority.

A minimum of ninety (90) calendar days notice shall be provided to any employee targeted for layoff.

## **B. Employee Rights**

When a specific position is targeted for elimination, the affected employee shall have the right to either bump an employee with less seniority from lower classifications within their current job family, or bump an employee with less seniority who is occupying any position the targeted employee previously held, including lower classifications within the previously held position's job family. No employee shall bump into any position for which he or she does not meet the minimum qualifications. When an employee bumps into a lower classification, the move shall be treated as a demotion under Rule 4. Section 402.

Employees eligible to choose the option of either bumping into a previously held position or a position within said position's job family, or within their current job family shall notify Human Resources within ten (10) business days which option he or she has chosen.

An employee in a general classification targeted for lay-off shall be re-deployed to a position of the same classification in another City department. An employee in the classification, who has the least seniority with the City, shall be laid off and the laid-off employee with the most seniority shall be placed in the position.

Employees who believe they were selected for lay-off for any reason other than seniority may appeal their selection to the Department Manager or designee, in consultation with the Human Resources Department, within five (5) days of receipt of their lay-off notice. Layoffs are not appealable to the Merit System Board.

## **C. Layoff List**

Names of laid-off employees are kept on a layoff list for two (2) years. Employees rehired from a layoff list, who return to their previously held position or a position in the same class, shall return to their rate of pay at the time they were laid off. Employees resume their positions without loss of seniority. An employee's rate of accrual and unreimbursed sick leave, including Mediflex, will be restored. Employees rehired into a higher classification will be subject to Rule 2. Section 202 D, which governs promotions. Employees rehired into a lower classification will be subject to Rule 4. Section 402, which governs demotions.

When a position becomes available, the City will make every effort to notify employees on a layoff list. However, it is the employee's responsibility to apply for any position the employee did not occupy at the time of their lay-off. When a position becomes available, any employee on a lay-off list who occupied that position at the time of their lay-off shall be re-appointed to that position. When two (2) or more employees occupied

a position at the time of their lay-off that subsequently becomes available, re-appointment shall be based on seniority.

## **Section 404: Resignation/Retirement**

### **A. Resignation**

Employees resigning from the City shall submit a written resignation notice to their supervisor at least ten (10) working days prior to separation.

The Department Manager forwards resignation notices to Human Resources.

Failure of employees to comply with this section may be cause for denial of future employment with the City.

Resigned employees may withdraw their resignation prior to the termination date with approval of the Department Manager.

At the discretion of the Department Manager, an unauthorized leave of absence may be considered a resignation.

### **B. Retirement**

Employees retiring from the City must be in good standing and have been eligible to receive benefits from one of the City's sponsored state retirement plans.

The maximum retirement age is 65 for members of the Public Safety Personnel Retirement Plan. There is no maximum retirement age for members of the Arizona State Retirement System.

Employees retiring from the City must submit written notification to their supervisor at least thirty (30) days prior to the retirement date. The notification is forwarded to Human Resources immediately.

## **Section 405: Disability**

### **A. Guidelines**

Employees may be transferred, demoted, or terminated from City employment for reasons of disability when a mental or physical condition renders them incapable of satisfactorily performing the essential functions of their position, and when no reasonable accommodation can be made by the City without undue hardship.

If the results of a medical examination indicate that an employee is unable to satisfactorily perform the essential functions of the position and reasonable accommodation would cause undue hardship, the employee shall be placed on available medical leave or any other paid or unpaid leave as a preliminary to commencement of disability benefits or termination.

Employees may be required, by the Department Manager and the Human Resources Manager, to take and pass medical, psychological, and/or mental health examinations for which the City shall assume the cost. Employees, who the medical examiner determines are physically or mentally incapable of satisfactorily performing the essential functions of their position, may be assigned to a classification for which they are suited, based on availability, or terminated for inability to carry out the duties and responsibilities of their position.

### **B. Long-Term Disability (LTD)**

Regular employees with one (1) or more years of City service may be eligible to receive Long-Term Disability (LTD) benefits if they become disabled and unable to satisfactorily perform their job due to an injury or illness. This income protection benefit is governed by the provisions of the City's Long-Term Disability Protection Program as adopted by the City Council, and all amendments and revisions.

All non-sworn employees who are participants in the Arizona State Retirement System (ASRS) are eligible for the Arizona State Retirement System's Long-Term Disability Income Plan. The City's Long-Term Disability benefit is in addition to any benefit provided by the Arizona State Retirement System's Long-Term Disability Income Plan.

#### **1. Compensation**

Regular employees who have completed twelve (12) months of credited service are eligible for disability benefits after a ninety (90) consecutive day waiting period as defined in the Program. Workday absences during the waiting period shall be charged to the employees' accrued medical and vacation leave. An employee may choose to use compensatory time.

Eligible employees may use compassionate and catastrophic leave, if available, during the waiting period. Accrued paid medical, vacation

leave, personal leave day, and if eligible and available, compassionate and catastrophic leave, shall be used prior to unpaid leave. Once all paid leave has been exhausted (except compensatory time if the employee is on Family Medical Leave (FMLA) and chooses not to use it), no compensation is received from the City during the waiting period.

If an employee is receiving Long-Term Disability (LTD) benefits and is able to return to work on a reduced hour basis, the employee will be paid for the hours worked and LTD benefits for the remainder up to 100% of their regular salary. Wages plus LTD benefits shall not exceed 100% of an employee's regular salary.

## 2. Leave Accruals

Medical and vacation leave accruals shall be stopped when an employee exhausts his or her accrued balances or when long-term disability benefits commence, whichever comes first.

Every effort shall be made to reasonably accommodate qualified individuals with a disability prior to original employment, reassignment, reclassification, demotion, or dismissal, unless the accommodation would pose an undue hardship to the City.

## **Section 406. Disciplinary Action/Employee Performance Improvement Process**

### **A. Guidelines**

The City Manager has authority to take disciplinary action against any classified or unclassified employee, except those appointed by the City Council. The City Manager may delegate this authority to any management employee for subordinate employees.

A process of progressive discipline is followed to ensure that classified employees are afforded adequate opportunity to correct unacceptable behavior. However, the seriousness of the offense may dictate overriding progressive discipline, and serious offenses may lead to immediate dismissal at any stage of the process.

### **B. Grounds for Dismissal**

The following reasons constitute grounds for dismissal:

1. The employee lacks sufficient competency or efficiency to perform assigned duties and responsibilities.
2. The employee is unsafe to himself/herself, other employees, the public, or City property in the performance of duties and responsibilities; or the employee has frequently violated safety rules or practices.
3. The employee has been abusive in attitude, language, behavior, or conduct toward a fellow employee, a supervisor, or the public; or their action has resulted in physical harm, injury, or fear of it to such persons.
4. The employee has been insubordinate, willfully disobedient, or has failed to follow reasonable direction from a supervisor.
5. The employee has been convicted of a criminal offense while employed by the City.
6. The employee has stolen public or private property, misappropriated City funds, or has been an accomplice in any of these practices while employed by the City of Tempe.
7. The employee has made unauthorized use and/or removal of City property.
8. The employee, through negligence or willful misconduct, has caused damage to public property or waste of public supplies.
9. The employee has engaged in conduct, on or off duty that is of such a nature that it causes discredit to the City.
10. The employee has purchased, possessed, used, manufactured, distributed, dispensed, or sold alcoholic beverages, unauthorized drugs or controlled substances, or any other intoxicants on City

property, while operating City equipment, or while performing City duties unless authorized to do so, or the employee has reported to work under the influence of alcohol or drugs as defined in Rule 3. Section 310. Drug-Free Workplace, or the employee's off-duty use, possession, or sale of drugs or alcohol adversely affects work performance, safety, or the City's reputation.

A Department Manager may search City property and personal effects placed in City property based on a reasonable suspicion of the presence of drugs or alcohol. Also for reasonable suspicion, an employee may be required to undergo an intoxilyzer, blood, breath, urinalysis, hair, saliva, or any other appropriate test to detect and substantiate the presence of alcohol or drugs. Refusal to undergo the test when ordered or switching or adulterating test samples will constitute violation of (4) above.

11. The employee has intentionally falsified any document, report or statement relating to their employment with the City.
12. The employee has secured employment with the City through misrepresentation or fraud.
13. The employee has refused to subscribe to any oath or affirmation required in connection with City employment.
14. The employee has violated the rule or regulation governing outside employment. See also Section 602. Outside Employment, Activity or Enterprise.)
15. The employee has been inexcusably absent, has failed to receive prior approval for any paid or unpaid absence, has abandoned their position, feigns sickness or injury, or otherwise deceives a supervisor as to their condition or ability to perform the duties of the position, or the employee has falsified a certificate justifying medical leave.
16. The employee has had excessive absenteeism or tardiness.
17. The employee has engaged in a strike. (See also Section 407. Strike.)
18. The employee has refused to perform reasonable light duty that is assigned because of an illness, injury or disability. (See also Section 405. Disability.)
19. The employee has worked at unauthorized outside employment while on medical leave, industrial accident leave, or Family and Medical Leave (FMLA) or Long-Term Disability (LTD). (See also Sections 503. Medical Leave, 504. Industrial Accident Leave, 512. Family and Medical Leave, and 602. Outside Employment, Activity or Enterprise.)

20. The employee has concealed information or failed to properly report an accident or incident under the purview of any state statute or City resolution or regulation.
21. Failure of an employee, convicted under a criminal drug statute for a violation occurring in the workplace, to notify his or her Department Manager within five (5) days after such conviction.
22. The employee holds a City of Tempe elective office prior to resigning from a City position or holds any other office incompatible with a position with the City.
23. The employee has used or attempted to use political influence in securing a promotion, leave of absence, transfer, or an increase in pay.
24. The employee has accepted a fee, gift, or other item in the course of performing the duties and responsibilities of their position, if the gift is given in hope of receiving a favor or preferred treatment, or if the gift is given after receipt of the favor or preferred treatment. (See also Section 604, Gifts and Gratuities.)
25. The employee has committed an act of discrimination, harassment or retaliation because of race, color, religion, gender, sexual orientation, gender identity, national origin, age, or disability. (See also Section 408. Diversity.)
26. The employee has committed any other conduct of equal gravity to the reasons enumerated in this section.
27. The employee possessed a deadly weapon, either concealed or unconcealed, while on City property, during scheduled work hours. The employee possessed a deadly weapon, either concealed or unconcealed, in a City vehicle, or in a personal vehicle which is being used for City business. Deadly weapons include, but are not limited to, explosives, firearms, and prohibited weapons as those terms are defined by Arizona Revised Statutes §§ 13-3101 A. (1), (3), (4), and (7), but do not include mace and pepper spray. This applies to all City employees and contract employees, excluding employees engaged in military or law enforcement activities.
28. The employee has lied about or misrepresented facts or circumstances during an external or internal investigation.
29. The employee has been dishonest in the course of performing his or her job.
30. The employee has deliberately and knowingly misused the City-provided information infrastructure including telecommunications, cable and computer networks, electronic mail (e-mail) with its ancillary applications, or the Internet, when using City-provided resources, by accessing or transmitting any adult (pornographic) material(s),

websites, or anything which could be construed as sexually explicit, scandalous, defamatory, libelous, illegal or immoral, or by propagating a computer worm or virus, or any other program or material which may have a debilitating or disabling affect on the City's computer systems.

31. The employee has deliberately and knowingly made false accusations against another employee, elected official, or board and commission member in order to discredit another employee, elected official, or board and commission member.
32. The employee has failed to report all criminal convictions prior to City employment within five (5) days of employment to the Human Resources Manager or designee.

Grounds contained in Section 406. B. also constitute grounds for other types of disciplinary actions as described in Section 406, Subsections C-D.

### **C. Disciplinary Actions Not Appealable to the Merit System Board**

#### **1. Written Reprimand**

A written reprimand is an official notification to an employee that there is cause for dissatisfaction with the employee's job performance or that there is misconduct. The written reprimand is documented on the "Disciplinary Action" form and placed in the employee's personnel file in Human Resources. The immediate supervisor is responsible for written reprimands.

#### **2. Administrative Leave**

Administrative Leave is the non-disciplinary suspension of an employee with pay to permit an investigation into matters concerning a possible disciplinary action. Administrative Leave is initiated by an employee's supervisor and approved by the Department Manager. During this period, the employee is considered to be on full duty and available to participate and aid in the investigation. Employees shall be accessible to City management via telephone and be available to meet with City personnel during regular business hours (Monday-Friday, 8:00 a.m. –5:00 p.m.). If an employee is not going to be available at his or her home telephone number, the employee must let his or her supervisor know where he or she may be reached.

During Administrative Leave, an employee is prohibited from entering the City workplace, accessing the City's computer system, the City's Intranet site, and any other files, unless instructed to do so by his or her supervisor, Department Manager or designee, Human Resources Manager or designee, or City Manager or designee. When placed on Administrative Leave, an employee shall leave all keys, pass codes, and other means of access to City property with his or her supervisor.

Reasons for placing an employee on Administrative Leave include, but are not limited to:

- a. An internal review or investigation when the employee's presence on the job or at the work site would hinder the review or investigation, or
- b. A situation that is perceived to be of an urgent or serious nature in which the supervisor believes the employee should be immediately removed from his or her job, such as when the employee's presence would be detrimental to the public interest or the continued efficient operation of the City, or
- c. Other extraordinary circumstances.

An employee, who fails to comply with this provision, or cooperate with, an investigation or review, is subject to discipline up to and including termination.

An employee shall receive and sign an "Administrative Leave Rights and Obligations Form" at the time he or she is placed on Administrative Leave. Supervisors shall obtain approval from his or her Department Manager before placing an employee on Administrative Leave. Administrative Leave shall not extend beyond thirty (30) consecutive days, except in extraordinary circumstances.

### 3. Disciplinary Suspension – 40 Hours or Less

Disciplinary suspension of 40 hours or less (56 hours for Firefighters) is the temporary separation of an employee from City service without compensation.

A suspended employee receives written notification on a "Disciplinary Action" form listing the specific charge(s), period of suspension, and administrative review and appeal rights, if any. The Department Manager shall approve suspensions. The Human Resources Department is immediately provided the original suspension notice.

#### a. Exempt Employees

Exempt employees (those exempt from the provisions of the Fair Labor Standards Act) shall not be suspended without pay for disciplinary sanctions for a period of time less than 40 hours (48 hours for exempt Fire Department employees who work 48-hour workweeks) except for infractions of safety rules "of major significance."

Suspensions for exempt employees must occur within the same workweek. Safety rules of major significance are those [rules] and supervisory directives relating to the prevention of serious hazard, damage or danger to the City, its facilities, employees or the public.

b. Use of Vacation to Offset Suspension

An employee who has successfully completed his or her original probation may use accrued vacation leave to offset the hours of suspension with approval of the Department Manager. If an employee uses vacation leave to offset the hours of suspension, the employee shall still work the number of hours charged to his or her vacation leave. All hours of suspension for an exempt employee must occur within the same workweek.

c. Employee Rights

Suspensions of forty (40) hours or fewer (fifty-six (56) hours for Firefighters) are not appealable to the Merit System Board.

**D. Disciplinary Actions Appealable to the Merit System Board**

1. Disciplinary Suspension – Greater Than 40 Hours

Disciplinary suspension of greater than forty (40) hours (forty-eight (48) hours for Fire Battalion Chiefs, and fifty-six (56) hours for Firefighters) is the temporary separation of an employee from City service without compensation.

A suspended employee receives written notification on a "Disciplinary Action" form listing the specific charge(s), period of suspension, and administrative review and appeal rights, if any.

The Human Resources Department is immediately provided the original suspension notice. The Department Manager must approve suspensions.

a. Use of Vacation to Offset Suspension

An employee who has successfully completed his or her original probation may use accrued vacation leave to offset the hours of suspension with approval of the Department Manager. If an employee uses vacation leave to offset the hours of suspension, the employee shall still work the number of hours charged to his or her vacation leave.

b. Employee Rights

No employee shall be suspended for more than four (4) calendar weeks at any one time for any one offense without being terminated from employment.

A classified employee has the right to an Administrative Review before being suspended for more than forty (40) hours (forty-eight (48) for Fire Battalion Chiefs and fifty-six (56) hours for Firefighters).

Employees may appeal suspensions of greater than forty (40) hours (forty-eight (48) for Fire Battalion Chiefs and fifty-six (56)

hours for Firefighters) to the Merit System Board after using and exhausting internal appeals.

2. Disciplinary Pay Reduction

Disciplinary pay reduction is the reduction of an employee's salary not to exceed ten percent (10%). The reduction may be permanent or temporary and shall be approved by the Department Manager. The disciplined employee receives written notice on a "Disciplinary Action" form listing the specific charge(s), period of pay reduction and amount, and right of appeal.

a. Employee Rights

A classified employee has the right to an Administrative Review prior to receiving a disciplinary pay reduction.

b. Exempt Employees

Exempt employees (those classified as exempt under the Fair Labor Standards Act) are not subject to disciplinary pay reduction except as authorized by law.

3. Involuntary Demotion

Involuntary demotion is the movement of an employee from one position to another position with a lower salary range maximum. The demotion may be permanent or temporary and shall be approved by the Department Manager. The employee receives written notice on a "Disciplinary Action" form listing the specific charge(s), review and appeal rights.

a. Compensation

If the employee is demoted for disciplinary reasons, the reduction in pay is not less than five percent (5%).

b. Employee Rights

A classified employee has the right to an Administrative Review prior to receiving an involuntary demotion.

4. Dismissal

Dismissal is the discharge for cause of an employee from City service. The employee receives written notice on a "Disciplinary Action" form listing the specific charge(s) and appeal rights.

A classified employee has the right to an Administrative Review before the Department Manager makes the final decision.

**E. Employee Rights**

1. Documentation

Documentation of all disciplinary actions include details of the specific charges, an opportunity for the classified employee to explain the

action or behavior, a specific description of the disciplinary action, and the consequences of continuation or recurrence of the performance and/or problem behavior.

Disciplinary suspensions of greater than forty (40) hours (fifty-six (56) hours for Firefighters and forty-eight (48) hours for Battalion Chiefs), demotion, disciplinary pay reduction and dismissal notices shall also outline the classified employee's right to an Administrative Review, appeal to the Merit System Board, and appeal to the City Manager.

## 2. Department Responsibility

Departments should fully complete a Disciplinary Action form within thirty (30) calendar days of the incident or within thirty (30) calendar days from the time the Department first became aware of the incident; exceptions to the above shall be approved by the Department Manager. The original disciplinary action notice is placed in the classified employee's personnel file. Failure of the Department to timely complete the Disciplinary Action form shall not prejudice the propriety of the discipline.

## 3. Silent Witness

Upon request, classified employees may have a regular employee of the City present as a silent witness in any meeting in which discipline may result or the employee is discussing a Performance Improvement Plan (PIP) or individual development plan with a supervisor.

## 4. Personnel File

Employees have the right to review their own personnel file maintained in Human Resources and/or maintained by their supervisor. If the employee objects to any document(s) other than those required by federal or state law, or City ordinance including the Tempe Personnel Rules and Regulations and administrative policies, the employee has the right to place a Memo to File in their personnel file documenting their objections.

## 5. Administrative Review

An Administrative Review provides an opportunity for classified employees to meet with the Department Manager, who has the authority to impose the proposed discipline before the final decision is made. Employees who have been notified of a proposed suspension of greater than forty (40) hours (fifty-six (56) hours for Firefighters), disciplinary pay reductions, demotion, and dismissal are eligible, upon their request, for an Administrative Review with the Department Manager.

This review is a personal meeting with the Department Manager to provide employees an opportunity to submit any additional information or evidence, facts or mitigating circumstances pertinent to the

disciplinary action. After being notified of the type of disciplinary action proposed, classified employees wanting an Administrative Review must contact the Department Manager's office by 5:00 p.m. on the next succeeding business day to arrange for an appointment.

6. Merit System Board Hearing

A Merit System Board hearing may be requested by classified employees who have received a disciplinary suspension greater than forty (40) hours (fifty-six (56) hours for Firefighters), a disciplinary pay reduction, a demotion, or a dismissal. A hearing before the Merit System Board is allowed only after classified employees have used and exhausted all other rights of review and appeal. (See also Section 105, Merit System Board.)

An appeal to the City Manager may be made by classified employees following a Merit Board hearing resulting in a disciplinary suspension longer than forty (40) hours (fifty-six (56) hours for Firefighters), a disciplinary pay reduction, a demotion, or a dismissal. The request for an appeal shall be in writing and submitted to the City Manager within three (3) business days following notification of the Merit System Board recommendation. The decision of the City Manager is final and binding.

7. Resignation in Lieu of Discharge

Employees who have been discharged from City service or have voluntarily resigned in lieu of being discharged, for a reason other than an inability to satisfactorily perform the essential functions of their job, are not eligible to be rehired in any capacity by the City of Tempe.

8. Personnel Complaint Resolution Process

Employees may use the Personnel Complaint Resolution Process as a way to address work-related issues or concerns. This process does not replace the Grievance Procedures in Rule 6. Section 605.

Employees are required to use their "Chain of Command," which is defined as the employee's first line supervisor and each respective higher level of management until the employee has worked their way to their Department Manager. The employee and his or her supervisor should document the reasons as to why the concern or issue was not resolved at the first-line level.

If the issue is still unresolved after the employee has worked his or her way through the Department Manager, then the employee may take his or her concern to the City Manager. Work related issues shall be addressed within one (1) week from when the employee becomes aware of the concern or issue.

For violations of these Personnel Rules and Regulations involving an employee's supervisor, the employee should go to his or her supervisor's superior and/or the Human Resources Manager.

## 9. Intolerable Working Conditions

If an employee believes that his or her working conditions have become intolerable and may cause him or her to resign, then he or she is required to notify Human Resources. Under Arizona Revised Statute Section 23-1502, an employee may be required to notify the Human Resources Manager, in writing, that a working condition exists that the employee believes is intolerable, that will compel the employee to resign, or that constitutes a constructive discharge, if the employee wants to preserve his or her right to bring a claim against the City alleging that the working condition forced him or her to resign.

An employee is required to allow the City of Tempe fifteen (15) calendar days from the date of written notification to respond in writing to the matters presented in the employee's written communication.

## 10. Employee Discrimination

Pursuant to Federal and State law, employees have the right to file complaints within three hundred (300) days of the alleged discrimination with the Equal Employment Opportunity Commission and/or within one hundred eighty (180) days of the alleged discrimination with the Arizona Civil Rights Division of the Attorney General's Office. Time limits for filing a complaint are according to applicable law. As recommended by the State of Arizona Attorney General's office, employees do not have to first exhaust the City's administrative review procedures or any other process the City offers prior to filing a claim.

### **F. Mediation**

Mediation is a voluntary, informal process that allows two (2) people who are having differences to sit down with a neutral third party to consider possible solutions. Mediators do not take sides or decide how an issue will be resolved, nor do mediators investigate any charges. The mediator may suggest possible resolutions, but the parties control the outcome. All mediations shall be kept confidential to the extent permitted by law, except as is necessary to be disclosed to others on a need-to-know basis:

- Due to physical or sexual abuse;
- Where a danger exists to self or others; or
- To implement any resolution reached by the parties.

All City personnel who are involved with or are aware of mediations are expected to maintain the same level of confidentiality.

### **G. Employee Performance Improvement Process**

#### 1. Purpose

The City of Tempe has established the Performance Improvement process, which is designed to help an employee improve performance

and/or correct issues through informal discussions, use of a Performance Improvement Plan (PIP), and/or, if necessary, by following a course of progressive discipline. Whenever possible, an informal discussion and/or a Performance Improvement Plan (PIP) will be provided to an employee as an opportunity to correct a performance issue before discipline is administered. Employees on a Performance Improvement Plan (PIP) may receive a salary step increase at the discretion of the Department Manager. (See Rule 2. Section 202. E.)

## 2. Guidelines

A Performance Improvement Plan (PIP) may be initiated after the informal discussion step, if appropriate. A Performance Improvement Plan (PIP) should be initiated at the time progressive discipline is administered. A Performance Improvement Plan (PIP) is used to correct a problem or issue or improve performance. It is a written form of constructive counseling and may include some or all of the following items:

- A description specifying how the employee's performance does not meet job standards; A description of the changes and improvements necessary for the employee to improve their performance and/or behavior(s) in order to satisfy job standard(s) and/or correct inappropriate behavior(s);
- Suggestions for additional training, help from workmates, educational materials, resource materials, or other steps the employee can take to improve performance;
- The employee's strengths and suggestions as to how the employee can use them to improve his or her performance standard(s) and/or inappropriate behavior(s);
- Suggestions on how an employee can transform his or her weaknesses into a positive force;
- Enthusiasm and support for the employee's ability to improve,
- The frequency and dates of progress reviews;
- A description of possible disciplinary actions if the employee does not improve; and
- Attendance expectations, required documentation, and procedures if absences and/or tardiness are an issue.

## 3. Process

The Performance Improvement process consists of the following four steps:

- Step One - Informal discussion

- Step Two - Performance Improvement Plan (PIP) and Written Reprimand
- Step Three - Performance Improvement Plan (PIP) and Suspension
- Step Four - Final Disciplinary Action

Steps Two, Three, and Four also include progressive discipline as appropriate. At each step of the process the supervisor monitors the employee's progress. If employee expectations are met during the monitoring period, the supervisor documents the employee's progress with a Memo to File. If employee expectations are not met, then the supervisor proceeds to each successive step up to Step Four.

a. Step One – Informal Discussion

An Informal Discussion is the first step in problem solving. Every effort should be made to correct a problem or issue through discussion between the employee and his or her supervisor.

In Step One the supervisor prepares a memo outlining issues, expectations, and a monitoring period. The memo is provided to the employee and retained in the supervisor's working file for twelve (12) months. If employee expectations are met during the monitoring period, the supervisor documents the employee's progress with a Memo to File. The supervisor and employee sign and date the Memo to File. If employee expectations are not met, then the supervisor proceeds to Step Two.

b. Step Two – Performance Improvement Plan (PIP) and Written Reprimand

In Step Two the supervisor prepares a memo outlining issues, expectations, and a monitoring period. The supervisor also issues Part I – Alleged Offense of the Disciplinary Action Form. The employee submits Part II – Employee Response. The supervisor responds with Part III – Statement of Final Action. A copy of the Performance Improvement Plan (PIP) and Disciplinary Action Form are forwarded to Human Resources for placement in the employee's personnel file for three (3) years. If employee expectations are met during the monitoring period, the supervisor documents the employee's progress with a Memo to File. The supervisor and employee sign and date the Memo to File. The supervisor forwards the memo to Human Resources for placement in the employee's personnel file for three (3) years. If employee expectations are not met, the supervisor proceeds to Step Three.

c. Step Three – Performance Improvement Plan (PIP) and Suspension

In Step Three, the supervisor prepares a Performance Improvement Plan (PIP) outlining issues, expectations, and a monitoring period. The supervisor also issues Part I – Alleged Offense of the Disciplinary Action Form. The employee submits Part II – Employee Response. The supervisor issues Part III – Statement of Final Action. A copy of the Performance Improvement Plan (PIP) and Disciplinary Action Form is forwarded to Human Resources for placement in the employee's personnel file.

If employee expectations are met during the monitoring period, the supervisor documents the employee's progress with a Memo to File the employee signs and dates. The supervisor forwards the memo to Human Resources to be placed in the employee's personnel file for three (3) years. If employee expectations are not met, the supervisor proceeds to Step Four.

d. Step Four – Final Disciplinary Action

In Step Four the supervisor issues Part I - Alleged Offense of the Disciplinary Action Form. The employee submits Part II – Employee Response. The supervisor issues Part III – Statement of Final Action. If Step Four is a dismissal, the supervisor shall forward a copy of the Disciplinary Action Form to Human Resources prior to termination; otherwise the Disciplinary Action Form will be placed in the employee's personnel file for three (3) years.

If the employee is not demonstrating progress as a result of the Performance Improvement Process, or the employee's conduct or job performance deteriorates further, a supervisor or manager may initiate a process of progressive discipline to ensure that classified employees are afforded adequate opportunity to correct unacceptable behavior or performance. Progressive Discipline may include a written reprimand, a disciplinary suspension, a disciplinary pay reduction, an involuntary demotion, and/or a dismissal.

It is the policy of the City to administer discipline fairly, responsibly and consistently. In most cases, the City and the employees are best served when discipline is administered to correct job misconduct and/or poor performance rather than to punish an employee. However, serious offenses may lead to immediate dismissal at any stage of the process. Section 406.B. describes what constitutes grounds for dismissal.

## **Section 407: Strike**

Strikes by employees are prohibited. Any employee who engages in a strike shall be dismissed. The term “strike” as used in this section means concerted action that disrupts or interferes with the carrying out of any City function for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges or obligations of employment.

In the event an employee is terminated due to a violation of this section, the Merit System Board shall only determine whether or not the employee engaged in a strike as described above. An employee’s right of appeal to the Merit System Board under is limited to a dispute over whether or not the employee engaged in a strike as described above.

## **Section 408: Diversity**

### **A. Guidelines**

The City of Tempe is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a workplace environment that promotes equal employment opportunities and prohibits discriminatory practices, including sexual harassment or any other form of harassment proscribed by law.

The City prohibits any such discrimination or harassment and prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports. Violation of this policy shall result in disciplinary action, up to and including termination of employment.

### **B. Definitions**

#### **1. Discrimination**

Discriminate or discrimination means to exclude individuals from an opportunity or participation in any activity because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, or disability, and occurs whenever similarly situated individuals of a different group are accorded different and unequal treatment in the context of a similar situation.

#### **2. Diversity Office**

The Diversity Office is created to serve all City of Tempe employees. One of the most important roles of the Diversity Office is to serve as a Safe Haven for any employee experiencing discrimination, retaliation or a hostile work environment. Employees can feel comfortable knowing the Diversity Office is independent from the normal chain of command.

#### **3. Equal Employment Opportunity**

It is the policy of the City to ensure equal employment opportunity to all qualified persons based solely on an individual's ability to perform the essential functions of a job without discrimination or harassment on the basis of race, color, religion, disability, gender, age, sexual orientation, gender identity, national origin or any other status protected by law.

The City's equal employment policy applies to all human resources-related activities.

Employment discrimination based upon an employee's race, color, gender, religion or national origin is a violation of Title VII of the Civil Rights Act of 1964, as amended while discrimination based upon an employee's disability is a violation of the Rehabilitation Act of 1973 and Title I of the Americans with Disabilities Act of 1990. Age discrimination is a violation of the Age Discrimination in Employment Act, as amended.

#### 4. Hostile Work Environment

A hostile work environment is one in which an employee is regularly confronted with offensive comments, jokes, cartoons or remarks making it difficult for an employee to perform his or her job. A hostile work environment does not need to be limited to sex-based conduct.

For example: work environments can be racially hostile or religiously hostile among other things. Generally the conduct that creates a hostile work environment is repeated behavior which:

- a. Pervades the work place;
- b. (2) Is offensive to a reasonable person; and
- c. (3) Is offensive to the recipient.

However, one incident, if the incident is serious enough, can be considered the basis of a hostile work environment.

#### 5. Retaliation

For purposes of this policy, the City of Tempe defines retaliation as it is outlined in the Equal Employment Opportunity Commission (EEOC) Compliance Manual. It is unlawful to discriminate against an individual because he or she has opposed any practice made unlawful under the Federal employment discrimination statutes. This protection applies if an individual explicitly or implicitly communicates to his or her employer or other covered entity a belief that its activity constitutes a form of employment discrimination that is covered by any of the statutes enforced by the EEOC.

#### 6. Safe Haven

The Diversity Office was created to be a Safe Haven for any employee experiencing discrimination, retaliation or a hostile work environment.

#### 7. Sexual Harassment

For purposes of this policy, sexual harassment is defined in the Equal Employment Opportunity Commission (EEOC) Guidelines. The creation of an intimidating, hostile or offensive working environment may include such actions as persistent comments of a sexual nature, the display of obscene or sexually oriented photographs or drawings, sending sexually oriented email or consistently playing obscene or sexually oriented music or recordings.

However, conduct or actions that arise out of a personal or social relationship and that are not intended to have a discriminatory employment effect may not be viewed as harassment. The City will determine whether such conduct constitutes sexual harassment based on a review of the facts and circumstances of each situation.

Guidelines, such as unwelcome sexual advances, requests for sexual

favours, and other verbal or physical conduct of a sexual nature when, for example:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual Harassment is not, by definition, limited to prohibited conduct by a particular gender, for example:

- d. A man, as well as a woman, may be the victim of sexual harassment, and a woman as well as a man, may be the accused.
- e. The accused does not have to be the victim(s) supervisor. The accused may be the agent of the supervisor, a supervisory employee who does not supervise the victim, a non-supervisory employee (e.g., a co-worker), or a non-employee.
- f. The victim does not have to be the opposite sex from the accused; same sex harassment is prohibited.
- g. The victim does not have to be the person at whom the unwelcome sexual conduct is directed. The victim may be someone who is affected by such conduct when it is directed toward another person. For example, the sexual harassment of one employee may create an intimidating, hostile, or offensive work environment for another employee or interfere with an employee's work performance. The belief that such interference has occurred must be objectively reasonable.

For purposes of clarification, sexual harassment or other forms of unlawful harassment include, but is not limited to the following behaviors:

- h. Quid Pro Quo: This is a Latin expression meaning "something for something," or "this for that," or "you do this for me, I'll do that for you."
- i. Verbal Harassment: Derogatory comments, propositioning, slurs, or other offensive words or comments on the basis of any protected status; whether made in general, directed to an individual or to a group of people, and regardless of whether the behavior was intended to harass. This includes, but is not limited to, inappropriate comments on appearance, including dress or physical features, sexual rumors, code words, and stories.

- j. Physical Harassment: Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy, or movement when directed at an individual on the basis of any protected class status. This includes such behaviors as pinching, patting, grabbing, or making explicit or implied threats or promises in return for submission to physical acts.
  - k. Visual Forms of Harassment: Derogatory, prejudicial, stereotypical, or otherwise offensive posters, photographs, cartoons, notes, bulletins, drawings, screensavers, pictures, or articles of clothing that refers to any protected status or characteristic. This applies to posted materials, material maintained in or on City of Tempe property or equipment, or personal property in the workplace.
8. Other Forms of Unlawful Harassment

Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, disability, gender, age, sexual orientation, national origin, gender identity or any other status protected by law and that:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment.
- b. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- c. Has the purpose or effect of otherwise adversely affecting an individual's employment opportunities.

## **C. Responsibilities**

### **1. Diversity Manager**

The Diversity Manager is responsible for the development, implementation, coordination, and monitoring of the City's diversity policies and shall serve as a Safe Haven for all City employees. The Diversity Manager will administer the investigation of the complaints of discrimination and/or harassment filed through the Diversity Office and will prepare findings and recommendations.

### **2. Human Resources Department**

The Human Resources Department will investigate complaints of discrimination and/or harassment filed through the Human Resources Department and will prepare findings and recommendations.

### **3. Department Managers and Supervisors**

Department managers and supervisors, as part of their management responsibilities, shall monitor the conduct of employees to ensure that day-to-day interactions are consistent with the City's Diversity Policy.

#### 4. Merit System Board

The use of the complaint procedure as listed below shall in no way affect employee rights. The findings of the investigation may be made available in Merit System Board hearings.

### **D. Procedures**

#### 1. Notification to the Offending Person

Any City employee who feels he or she may have been a victim of discrimination or harassment is encouraged to notify the offending person that his or her activities are unwelcome, undesirable, and/or offensive.

#### 2. Complaint Procedure

##### a. Employees

Employees who feel victimized by sexual or other forms of harassment, a hostile work environment, discrimination and/or retaliation should report their complaint to their supervisor immediately. If the worker's immediate supervisor is the source of the alleged unlawful discrimination, harassment or retaliation, the employee should report the problem to the supervisor's superior, the Diversity Manager, or the Human Resources Manager.

##### b. Job Applicant

A job applicant who believes he or she has been the victim of sexual or other forms of harassment, discrimination and/or retaliation may file a complaint with the Diversity Manager or the Human Resources Manager.

##### c. Process

Upon receipt of the complaint in the Human Resources Department or Diversity Office, the Human Resources Manager or designee, or the Diversity Manager and the Department Manager will fully investigate the complaint. The Human Resources Manager or designee or the Diversity Manager will work with the department to obtain and evaluate all relevant evidence with respect to what has occurred and determine what remedy is appropriate.

If there is reasonable cause to believe that harassment, discrimination, and/or retaliation has occurred, the Human Resources Manager or designee, or the Diversity Manager will make recommendations for specific remedial and disciplinary actions. The Complainant and the party charged shall be notified of the findings, as appropriate.

##### d. Discipline

The type of discipline to which an employee will be subject for harassing, discriminating or retaliating against another employee will depend on the severity of the finding. Discipline may range from verbal counseling to dismissal. If the discipline is a suspension, pay reduction, demotion, or dismissal, the employee will be advised of his or her rights, if any, to appeal the action under the Personnel Rules and Regulations. The City Manager has the authority to reassign any employee to minimize conflict created by a charge of harassment, discrimination or retaliation. If reasonable cause has been found that harassment, discrimination or retaliation has taken place and that a reassignment is the best solution, every effort will be made to transfer the offending employee rather than the complainant unless the complainant chooses to be transferred.

If reassignment is not practical, the Department Manager or designee will monitor the situation for evidence of further retaliation.

All City employees are encouraged to use the procedures set forth in this policy.

#### **E. Confidentiality**

Confidentiality shall be maintained throughout the investigation except to satisfy the provisions of this policy, and as may be required by law. All City employees who are involved with or aware of investigations are expected to maintain the same level of confidentiality.

#### **F. Non-Retaliation**

Retaliation against an individual for reporting discrimination and/or harassment or for participating in an investigation of a claim of discrimination and/or harassment is a serious violation of this policy and shall be subject to disciplinary action, up to and including termination.

Acts of retaliation shall be reported immediately to the Diversity Manager or Human Resources Manager. Appropriate corrective action shall be taken, up to and including termination.

#### **G. False and Malicious Complaints**

False and malicious complaints of any violation of the City of Tempe Personnel Rules and Regulations, as opposed to complaints which, even if erroneous, are made in good faith, may be subject to appropriate disciplinary action, up to and including termination, in accordance with

#### **H. Filing Deadlines**

Employees have the right to file complaints within 300 days of the alleged discrimination with the Equal Employment Opportunity Commission (EEOC) and/or within 180 days of the alleged discrimination with the Arizona Civil Rights Division of the Attorney General's office. Time limits for filing a complaint are according to applicable law. These time periods should be followed even if the employee has not fully exhausted the City's

administrative review procedures or any other process the City offers prior to filing a claim.

## **Section 409: Americans with Disabilities Act (ADA)**

### **A. Guidelines**

The Americans with Disabilities Act (ADA) establishes comprehensive civil rights protection for persons with disabilities in areas of employment, public accommodations, state and local government programs and telecommunications; and prohibits discrimination on the basis of disability. The City of Tempe endeavors to make all of its employment opportunities available to, accessible for, and usable by, qualified individuals with disabilities.

### **B. Definitions**

#### **1. Disability**

A physical or mental impairment that substantially limits one or more major life activities. An individual is considered disabled if he or she has a record of an impairment (prior medical history of disability; e.g., back injuries, recovered alcoholics and drug addicts, cancer in remission), or is regarded as having such an impairment (e.g., physical deformities, severe burns, infectious or contagious disease which does not pose a direct threat to the health or safety of others).

#### **2. Employee**

Both full-time and part-time employment status is covered under this policy.

#### **3. Essential Functions of the Job**

A job function may be considered essential because:

- a. The position exists to perform that function (e.g., a Data Entry Operator enters data; an Equipment Operator operates equipment; a Programmer programs; etc.); or
- b. A limited number of employees are available and therefore, that job function cannot be distributed to another employee; or
- c. The incumbent was hired for his or her expertise or ability to perform the highly specialized job function (e.g., Environmental Compliance Supervisor, Economic Development Specialist, Social Services Counselor, etc.).

#### **4. Injured Worker**

An employee injured on the job or in a non-job related incident.

#### **5. Major Life Activity**

Caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working and participating in community activities.

#### **6. Qualified Employee with a Disability**

An employee who has a disability as defined in this section, can satisfactorily perform the “essential functions” of a job with or without a reasonable accommodation, and meets the minimum qualifications for the position.

## 7. Reasonable Accommodation

A change or adjustment to a job or work environment that permits a qualified employee with a disability to satisfactorily perform the essential functions of a job, or to enjoy the same employment benefits and privileges as those enjoyed by employees without disabilities.

A specific job change or adjustment would not be required if the specific circumstances result in an undue hardship to the City.

Reasonable accommodations may include:

### a. Acquisition or Modification of Equipment or Devices

### b. Job Restructuring

Modifying a job so that an individual with a disability can satisfactorily perform the essential functions of the job. Non-essential job functions can be reassigned or exchanged with other employees. The City is not required to create entirely new jobs.

#### Modification of Facilities or Work Station

Installing a wheelchair ramp or physically modifying a work station, restroom and/or break room.

### c. Modification of Work Schedule

Adjusting an employee’s schedule to accommodate special needs such as required medical therapy or the use of public transportation.

### d. Reassignment to a Vacant Position

The City is not required to remove an employee to create a vacant position. However, if the employee requesting an accommodation meets the minimum qualifications of a position where a vacancy already exists, the employee can be transferred or demoted to the vacancy.

### e. Substantial Limitation

A restriction on the conditions, manner, or duration of a major life activity that can be satisfactorily performed when compared to non-disabled people.

### f. Undue Hardship

A significant difficulty or expense (nature and cost of accommodation) relative to the operation of the City as a whole, as determined by the Human Resources Manager.

### **C. Requests for Accommodation**

Requests for accommodation must be in writing and submitted to Human Resources for a work-related or non-work related injury or illness that exceeds two (2) biweekly pay periods.

Human Resources will work with the employee's department to provide reasonable accommodation up to and including a transfer or demotion to a vacant position for which the employee is qualified and can satisfactorily perform the essential functions of the job. The employee may accept reasonable accommodation or choose other available options, for example: Family and Medical Leave, Long-Term Disability, and Medical Leave.

## **Section 410: Light Duty**

### **A. Guidelines**

The City will make an effort to provide temporary work assignments for an employee who is recovering from a medically documented mental or physical illness, injury or medical condition that is sustained on or off the job if the illness, injury, or medical condition precludes the employee from satisfactorily performing the essential functions of his or her position. Work assignments will be consistent with the employee's physical or mental capabilities during his or her recuperation period, prior to returning to full duty status.

Light Duty assignments are granted as a privilege, not a right or entitlement. Light Duty is intended for employees with a temporary illness, injury, or medical condition and will be provided only if there is a reasonable expectation that the employee will resume his or her regular duties at the end of the light duty assignment. This section is not intended as a reasonable accommodation under the Americans with Disabilities Act (ADA).

#### **1. Employee Responsibility**

The Employee shall provide a licensed Physician's written release indicating specific work restrictions prior to being placed on Light Duty status. A generic time-off slip from the physician will not be accepted. The City shall make the final decision in consultation with a Physician as to whether or not the employee is qualified to return to work, with or without reasonable accommodation.

#### **2. Department Responsibility**

The employee's supervisor will attempt to find appropriate Light Duty assignments within his or her department. Light Duty assignments shall benefit the City and be tailored to the employee's skills and abilities.

If a Light Duty assignment is not available within the employee's department, the supervisor shall seek assistance from other City departments. If a Light Duty assignment is not available in any other department and the employee is currently on leave, he or she shall contact his or her supervisor regularly to determine if Light Duty work has become available.

The supervisor shall submit a Payroll Action Request (PAR) form to the Employee Benefits Supervisor if an employee has been on Light Duty for over thirty (30) days. Upon receipt of the PAR form, the employee may be assigned a Case Manager who will work with the employee and his or her physician to ensure a timely return to his or her regular duties. The Case Manager shall monitor the employee's progress and

may require a physical and/or mental health examination by a City appointed medical provider. Timesheets shall be coded as follows:

- a. LF (Light Duty: Off-the-Job Injury/Illness)
- b. LN (Light Duty: On-the-Job Injury/Illness)

#### **B. Light Duty On-the-Job**

Light Duty shall be for up to ninety (90) calendar days per temporary injury, illness or medical condition. The Risk Manager shall approve a Light Duty assignment for an employee with an on-the-job injury, illness, or medical condition. If a Light Duty assignment needs to be prolonged for up to an additional ninety (90) calendar days, it may be extended with the written approval of the employee's supervisor and the Risk Manager. A Light Duty assignment may be extended for up to an additional one hundred eighty (180) calendar days with written approval of the Department Manager or designee and the Risk Manager or designee. The City may require a medical evaluation by a physician of its choice. An employee on light duty has no rights to a light duty position or task no matter how long he or she is on light duty.

Employees who believe they are no longer able to satisfactorily perform a light duty assignment after they have been released by their physician to work a light duty assignment, shall return to the treating physician for a medical evaluation before the start of his or her next regularly scheduled work shift. Upon return to work, employees are required to submit to their supervisor documentation verifying that their treating physician has released them from work. If documentation is submitted, the employee will be paid industrial leave for the day(s) they were absent. If documentation is not submitted, employees will be granted leave without pay for the day(s) they were absent.

Employees who believe they are unable to satisfactorily perform their light duty assignment after being released for duty by their treating physician shall immediately contact Risk Management. The Risk Manager may refer an employee for a second medical evaluation. Employees will receive industrial leave pay for time off between the first and second medical evaluation. If the second medical evaluation supports the employee's return to work and the employee refuses to return to their light duty assignment, the employee will be placed on general leave without pay, and if eligible, shall be offered benefits under the Family Medical Leave Act (FMLA).

#### **C. Light Duty Off-the-Job**

Light Duty Off-the-Job shall be for up to ninety (90) calendar days per temporary injury, illness or medical condition. The employee's supervisor shall approve a Light Duty assignment for an employee with an off-the-job injury, illness or medical condition. If a Light Duty assignment needs to be prolonged for up to an additional ninety (90) calendar days, it may be

extended with the written approval of the employee's supervisor and the Department Manager or designee. A Light Duty assignment may be extended for up to an additional one hundred eighty (180) calendar days with written approval of the Department Manager or designee and the Human Resources Manager or designee. The City may require a medical evaluation by a physician of its choice. An employee on light duty has no rights to a light duty position or task no matter how long he or she is on light duty.

An employee is required to immediately notify his or her supervisor upon receiving a physician's release to return to regular duty with or without reasonable accommodation. The physician's written release must be submitted to the supervisor before the employee shall be allowed to return to his or her regular position. The City may require an employee to take and pass a medical, psychological, or mental health examination by a healthcare provider of the City's choice. (See Rule 4. Section 405.) An employee who is no longer approved for light duty may be eligible for the City's disability benefits through the Long-Term Disability Income Protection Program.

The employee shall return to the same position he or she held before going on Light-Duty status. The supervisor shall submit to the Employee Benefits Supervisor, the Physician's written release with a PAR form reinstating the employee to regular employment status.

# **Rule 5. BENEFITS**

## **Section 501: Holidays**

### **A. Guidelines**

All regular and probationary full-time employees in an active pay status receive these days off with pay except for employees who must work to provide critical services to the community. (See Rule 2, Section 204, I. Additional Compensation, Holiday Work.)

#### **1. Holiday Schedule**

New Year's Day

Martin Luther King's Birthday

President's Day

Cesar Chavez Recognition Day

Independence Day

Memorial Day

Labor Day

Veteran's Day

Thanksgiving Day

Friday following Thanksgiving Day

Christmas Day

Personal Leave Day

#### **2. Weekend Holidays**

When a holiday falls on Sunday, it will be observed the following Monday. When a holiday is on Saturday, it will be observed the preceding Friday.

#### **3. Coordination of Leave and Holidays**

Employees on paid leave when a holiday occurs receive no additional pay and will not be charged with vacation or sick leave time. An employee who is on unpaid leave at the time of a holiday does not receive holiday pay. Fire Department employees working 24-hour shifts who are on paid leave when a holiday occurs are charged for the leave and are paid for the holiday as described in Section 204, I.

#### **4. Holiday Pay Upon Termination or Retirement**

Employees whose first day of work follows a holiday, do not receive pay for the holiday.

Terminating employees whose last day worked is the day before a holiday, will not receive pay for the holiday.

Employees retiring from the City do not need to work the day following a holiday in order to receive pay for that holiday.

Employees may take their Personal Leave Day on their last day worked.

#### **B. Personal Leave Day**

Regular employees may take one (1) personal leave day anytime during the calendar year. Employees may use their personal leave day for personal reasons. The number of hours regular employees shall receive is based on the employee's normal work schedule. Regular, part-time employees receive a pro-rated amount. Exempt Fire Department employees working a forty-eight (48)-hour workweek will be given an eight (8) hour day off with pay.

The immediate supervisor shall approve scheduling of the employee's personal leave day if operationally possible. Employees who have not used their personal leave day by the last pay period paid in the current calendar year shall be paid eight (8) hours for their personal leave day in January the following year.

## Section 502: Vacation

### A. Guidelines

#### 1. Accrual Schedule

##### a. Regular Full-Time Employees

Regular, full-time employees accrue annual vacation leave as outlined below. (See Table I (separate document) for conversion rates for employees working forty-eight (48)- or fifty-six (56)-hour work weeks.)

<b>Years of Service</b>	<b>Hours Earned Monthly</b>
Up to 5 years	8
5 to 9 years	10
10 to 14 years	12
15 years and over	14

Employees shall accrue vacation leave on a monthly basis. Accruals shall be posted and available for use as of the first of each month.

##### b. Part-Time Employees

Regular employees who work less than forty (40) hours per week but more than 1,040 hours a year receive prorated vacation credit.

#### 2. Maximum Accrual

An employee may carry over a maximum of three hundred (300) hours of accrued vacation. Fire Department employees who work fifty-six (56)-hour workweeks may carry over a maximum of four hundred twenty (420) hours. Fire Department employees who work forty-eight (48)-hour workweeks may carry over a maximum of three hundred sixty (360) hours.

As of January 1, 2002, any employee with an excess of three hundred (300) hours, or four hundred twenty (420) hours for Fire Department employees working fifty-six (56)-hour workweeks, or three hundred sixty (360) hours for Fire Department employees working forty-eight (48)-hour workweeks, shall have until the last pay date paid in December 2003 to reduce their excess hours to the maximum accrual limit. All other employees shall not be allowed to carry over excess vacation hours from one calendar year to the next.

Excess vacation hours shall be used by the last pay date paid in December of each calendar year or the hours in excess of the maximum, up to forty (40) hours, shall be automatically cashed out in accordance with Section 502. 3. Hours in excess of the maximum,

after a maximum of forty (40) hours has been cashed out, will be forfeited.

The City Manager may approve exceptions to this provision if it is in the best interest of the employee and the City to do so. Excess vacation hours carried over as a result of dire circumstances shall be used by April 1 of the current year.

3. Cashing Out Excess Vacation

The first pay date paid in January of each year, employees shall cash out up to one (1) week (forty (40) hours for general employees, fifty-six (56) hours for Fire Department employees working fifty-six (56)-hour workweeks and forty-eight (48) hours for Fire Department employees working forty-eight (48)-hour workweeks) of accrued vacation if the following requirements are met:

After cashing out one (1) week of vacation, the employee retains three hundred (300)\* hours (Fire Department employees working fifty-six (56)-hour workweeks must retain four hundred twenty (420)\* and Fire Department employees working forty-eight (48)-hour workweeks must retain three hundred sixty (360)\*hours as of the last pay date paid in December; and

The employee has used a minimum of three (3) weeks of vacation, one hundred twenty (120) hours for general and law enforcement employees, one hundred sixty-eight (168) hours for Fire Department employees working fifty-six (56)-hour workweeks, and one hundred forty-four (144) hours for Fire Department employees working forty-eight (48)-hour workweeks, during the previous twelve (12) months. Vacation usage must occur between the first pay date paid and the last pay date paid in the current year.

4. Eligibility

Employees may use accrued vacation leave, with their supervisor's approval, after working one (1) month.

5. Termination

Upon termination, employees are paid for unused vacation leave.

6. Accrual While on Leave

Vacation leave continues to accrue during any leave with pay.

7. Scheduling

All vacations are scheduled and taken in accordance with the best interests of the City. The City reserves the right to postpone or cancel vacations in the event of any emergency. This includes the right to recall an employee from vacation. Employee expenses resulting from cancellation or recall from vacation leave may be reimbursed by the City.

8. Maximum Leave Usage

Maximum vacation leave is thirty (30) consecutive working days except for Fire Department employees working fifty-six (56)-hour workweeks who may take a maximum of fourteen (14) working days. Employees who are retiring are allowed to exhaust their total excess vacation leave.

## **Section 503: Medical Leave**

### **A. Guidelines**

#### **1. Accrual Schedule**

Employees shall accrue medical leave on a monthly basis. Accruals shall be posted and available for use as of the first of each month.

##### **a. Regular Full-Time Employees**

Full-time regular and probationary employees on an active pay status accrue eight (8) hours of medical leave each month.

##### **b. Regular Part-Time Employees**

Regular, part-time employees receive a pro-rated amount.

##### **c. Fire Department Employees**

Fire Department employees who work fifty-six (56)-hour work weeks shall accrue 11.2 hours of medical leave each month and Fire Department employees who work forty-eight (48)-hour workweeks shall accrue 9.6 hours of medical leave each month.

#### **2. Maximum Accrual**

The number of medical leave hours that can be carried forward each January 1 is unlimited.

#### **3. Eligibility**

An employee may use accrued medical leave after one (1) month of employment with the City. Medical leave may be taken only when earned.

#### **4. Authorized Use**

Paid medical leave is granted to eligible employees for illness or physical incapacity of the employee or medical, dental, vision or mental health appointments during working hours. Use of medical leave for these appointments requires approval of the employee's supervisor and is granted in accordance with the best interests of the City and the employee's health.

An employee who is on approved vacation leave shall not be allowed to use medical leave for previously approved hours of vacation leave. Department Managers may make an exception for extraordinary, unusual circumstances to the employee or his or her immediate family, which is defined as follows: Spouse, Domestic Partner, Child (step), Mother, Father, Brother, or Sister.

- a. Care of ill family members, or medical, dental, vision, or mental health appointments for family members that reasonably require the employee to accompany the family member. The use of medical

leave for these reasons is limited to the number of hours available in the employee's medical leave bank.

Employees must exhaust their own vacation leave, compensatory time, and family sick leave for the care of ill immediate family members, before compassionate and catastrophic leave may be used.

"Family member" is defined as:

- • Spouse
- • Domestic Partner<sup>1</sup>
- • Parent (in-law and step)
- • Child (in-law and step)
- • Brother (in-law, half, and step)
- • Sister (in-law, half, and step)
- • Grandparent (in-law)
- • Grandchild (step)

- b. All pregnancy or childbirth-related examinations, hospitalizations, surgeries, illnesses, and recovery

Note: An employee will be expected to work before delivery until she cannot adequately perform the duties of her job, or it is no longer safe for her to do so, as certified by her attending physician.

- c. Enforced quarantine of the employee or an immediate family member in accordance with community health regulations

## 5. Outside Employment

In accordance with Rule 4. Section 406 B.19, Grounds for Dismissal; Rule 5. Sections 504; Industrial Accident Leave, 512; Family and Medical Leave, 508.B; and Rule 6. Section 602 Outside Employment, Activity or Enterprise, of the Personnel Rules and Regulations; employees are not allowed to work at outside employment while on Medical Leave, Industrial Accident Leave, Family Medical Leave or Long-Term Disability.

## 6. Priority of Leave Use

Employees who are eligible for medical leave due to their own physical or mental health problems may use available medical leave before using vacation, compensatory, compassionate, catastrophic or general leave. General leave is defined as unpaid leave. Vacation leave may be used for a medical, dental, vision or a mental health appointment if an employee notifies their supervisor at least twenty-four (24) hours in advance of their appointment. Except in the case of an unexcused absence and/or where there is disciplinary action, general leave may be used only after all available medical leave, vacation, compensatory time (unless on FMLA), compassionate leave, catastrophic leave and personal leave day is exhausted.

## **B. Annual Irrevocable Election for Accrued Medical Leave**

In October of each year, employees may declare an irrevocable election for any medical leave that may accrue the following year in excess of four hundred eighty (480) hours, or five hundred seventy-six (576) hours for those employees working 48-hour workweeks, or six hundred seventy-two (672) hours for those employees working fifty-six (56)-hour workweeks. The options for the irrevocable election for the accrued leave in excess of the four hundred eighty (480), five hundred seventy-six (576), or six hundred seventy-two (672) hours are:

Option 1: To cash out the “excess” accrued leave at a rate of twenty-five percent (25%), to be paid in December of the following year

Option 2: To accrue it in a medical leave bank

Cash payment is made for “excess” medical leave that was accrued in that year only. Hourly wages are as of the pay period ending closest to November 1 of the year in which the payment is being made. Taxes are applicable at the time the payment is made in Option 1 and at the time the medical leave is taken in Option 2.

Employees who do not make an irrevocable election will receive the Payout option.

## **C. Payment for Unused Medical Leave**

### **1. Annually**

For those employees electing a Cash Payout of “excess” medical leave, payment will be made as described in Section B. above.

### **2. Retirement**

Employees retiring from City service who are immediately eligible for retirement benefits under the Arizona State Retirement System or Public Safety Personnel Retirement Plan are reimbursed at the rate of fifty percent (50%) for their accrued medical leave. Employees may choose either cash or converted vacation leave. Reimbursement is based on the employee’s current hourly rate of pay at the time of retirement including assignment, maximum staffing, hazardous material, technical rescue technician, bilingual, shift differential, temporary detail, standby and holiday pay (excluding overtime) paid to the employee during the twelve (12) months preceding retirement.

At the time medical leave is converted to vacation leave, the employee is no longer entitled to accrue additional medical or vacation leave. Medical leave that is converted to vacation leave is taxable to the employee at time of conversion.

### **3. Resignation**

Employees resigning from City service in good standing with a minimum of ten (10) years of service shall be compensated in cash for

accumulated medical leave according to the following medical leave conversion schedule. Reimbursement shall be at their current regular hourly rate of pay (base salary) at the time of resignation according to the following schedule:

		Accrued Hours	% Reimbursed
Employees	40-Hour	0-480	50%
		481-760	25%
		761-1040	33%
		1041+	50%
Employees	48-Hour	0-576	50%
		577-912	25%
		913-1248	33%
		1249+	50%
Employees	56-Hour	0-672	50%
		673-1064	25%
		1065-1456	33%
		1457+	50%

#### 4. Death

One hundred percent (100%) of a deceased employee's accrued medical level shall be paid to the designated beneficiary on the employee's Basic Life insurance policy.

### **D. Employee Responsibility**

To be eligible for paid medical leave, employees shall:

1. Report promptly to their supervisor, giving the nature of the illness.
2. Keep the supervisor informed of their condition and location, if asked.
3. Permit the City to make any necessary medical examinations.
4. Submit a written statement from a qualified physician outlining the illness and any restrictions on the employee, if requested by the supervisor.
5. Upon request, provide a written release to return to work from a qualified physician.

## **Section 504: Industrial Accident Leave**

### **A. State Law**

Employees are covered by the City under the Arizona State Worker's Compensation Act against injuries, illness or disease occurring in the course of City employment. The law provides for payment of all medical expenses and, under certain circumstances, compensation for loss of income.

### **B. Definition**

If an employee is absent from work as a result of any injury, illness, or disease that is covered under the Arizona State Worker's Compensation Act, the absence is considered Industrial Accident Leave.

### **C. Reporting Requirements**

Every employee shall immediately report every job-related injury or illness, regardless of severity, to his or her supervisor. The supervisor shall report the incident to the Risk Manager within twenty-four (24) hours.

### **D. Schedule of Benefits — Regular Employees**

#### **1. Absences of One to Seven Days**

For absences of one (1) to seven (7) calendar days, employees receive their normal pay without loss of any sick or vacation leave.

#### **2. Absences Over Seven Days**

For absences over seven (7) calendar days, employees are compensated ninety percent (90%) of their biweekly compensation from the City for up to twelve (12) months. Beyond twelve (12) months, employees are compensated in accordance with the Arizona Worker's Compensation Act.

Employees may voluntarily supplement their Worker's Compensation benefits with accrued medical and vacation leave for up to twelve (12) months. The amount that may be supplemented is the difference between the Worker's Compensation benefit and the employee's (net) take home pay plus voluntary payroll deductions. Medical leave shall be exhausted before vacation leave is used to supplement Worker's Compensation.

#### **3. Medical Leave**

The use of medical leave is not allowed when an employee has refused Worker's Compensation.

#### **4. Supplemental Leave – Medical and Vacation**

An employee incapacitated and unable to work as a result of an injury or illness that occurred while performing approved off-duty employment may use accrued medical leave, or vacation leave if all medical leave

credits have been exhausted, to supplement Worker's Compensation received from the off-duty employer. The amount of medical or vacation leave used for supplemental purposes is computed in the manner outlined in Section 504. D., Subsection 2.

5. Leave of Absence

Employees who are on leave of absence and who are receiving Worker's Compensation shall continue to accrue medical and vacation leave for a period not to exceed six (6) months. After six (6) months, employees who are working in a light duty assignment shall have their medical and vacation accruals prorated based on the portion of the forty (40)-hour week the employee is working.

**E. Schedule of Benefits Temporary Employees**

1. Absences of One to Seven Days

For absences of one (1) to seven (7) calendar days, temporary employees receive no income.

2. Absences Up to Thirteen Days

For absences up to thirteen (13) calendar days, Worker's Compensation income begins on the eighth (8th) day.

3. Absences of Fourteen Days or More

For absences of fourteen (14) or more calendar days, Worker's Compensation is made retroactive to the date of injury or illness in accordance with state law.

**F. Returning from Industrial Accident Leave**

Employees on Industrial Accident Leave are returned to light duty when a City-designated physician authorizes release to light duty. The City shall attempt to find meaningful light duty work for the employee to perform during the recuperation period. (See also Rule 4. Section 410. Light Duty.)

An employee returning from Industrial Accident Leave shall submit a written release from the attending physician, subject to approval by a City-designated physician. The release must give the date of return to work and stipulate any restrictions to work performance.

**G. Outside Employment**

Employees are not permitted to engage in unauthorized outside employment while on Industrial Accident Leave, Medical Leave, FMLA Leave, or Long-Term Disability in accordance with Rule 4. Section 406. B.19.

## **Section 505: Bereavement Leave**

### **A. Family Member**

Upon the death of a “family” member, all regular employees in an active pay status shall receive up to three (3) working days leave with pay not chargeable to medical or vacation leave. Two (2) additional days shall be granted for out-of-state travel. Fire Department employees working hours per day, for a maximum of three (3) working days leave with pay not chargeable to medical or vacation leave. Two (2) additional eight (8)-hour days for those working forty-eight (48)-hour workweeks shall be granted for out-of-state travel. Bereavement Leave does not have to be used consecutively.

“Family Member” is defined as:

- Spouse
- Domestic Partner 1
- Parent (in-law and step)
- Child (in-law and step)
- Brother (in-law, half and step)
- Sister (in-law, half and step)
- Aunt
- Uncle
- Niece
- Nephew
- Grandparent (in-law)
- Grandchild (step)

### **B. “Immediate” Family Member**

Upon the death of an “immediate” family member, all regular employees in an active pay status shall receive five (5) working days leave whether in-state or out-of-state. The number of hours per day regular employees shall receive is based on the employee’s normal work schedule. Bereavement Leave does not have to be used consecutively.

“Immediate” family member is defined as:

- Father
- Mother
- Spouse
- Domestic Partner 1
- Child (step)

Brother

Sister

**C. Documentation**

Documentation of the death and attendance at the funeral and/or memorial service may be required.

## **Section 506: Military Leave**

Regular and temporary employees with military obligations may take military leave with pay not to exceed thirty (30) workdays in any two (2) consecutive calendar years. Military leave shall result in no loss of seniority, pay, vacation or other employment rights. Military leave in excess of thirty (30) work days is charged to accrued vacation, by employee choice, or general leave without pay.

Employees shall submit a copy of their military orders to their supervisor prior to commencement of their leave.

## **Section 507: Court Leave**

Regular employees in an active pay status who are summoned to attend court to serve as witnesses or perform jury duty during their regularly scheduled work hours are entitled to their regular compensation while serving, unless the litigation affects the personal interest of the employee.

The employee retains the additional compensation received for performing court duty.

Employees shall notify their supervisors immediately of a subpoena or summons and receive advance approval for court leave.

## **Section 508: Leave without Pay**

### **A. General Leave without Pay**

Regular employees, who have successfully completed their original probationary period, may take leave without pay with the City Manager's approval for the following reasons:

1. To run for elective office

To receive an education that will improve the employee's value to the City. The request for leave shall include the length of time to be taken, course work, and the benefit to the City.

2. To fulfill military obligations

For other reasons approved by the City Manager

### **B. Family and Medical Leave**

Regular, full- or part-time, eligible employees may take up to seventeen (17) workweeks per calendar year in accordance with the Family and Medical Leave Act of 1993 (FMLA). (See Section 512. Family and Medical Leave Act.) Regular, part-time employees who have successfully completed their original six-month probationary period and who are not eligible under FMLA, are entitled to seventeen (17) workweeks of paid or unpaid leave subject to the same terms and conditions as those employees who are eligible under FMLA. The Family and Medical Leave Act entitlement of seventeen (17) workweeks is concurrent with other types of paid or unpaid leave such as Long-Term Disability, Medical Leave, Family Sick Leave, Vacation Leave, Personal Leave Day, Compassionate and/or Catastrophic Leave. Employees may take Family and Medical Leave for the following reasons:

1. For the birth and care of a newborn child or the placement of a child with the employee for adoption or foster care

Accrued medical and vacation leave may be used for the birth and adoption of a child. Accrued paid medical and vacation leave shall be used prior to unpaid leave, and will be deducted from the total seventeen (17)-workweek entitlement. Employees may choose to use accrued compensatory time. The use of compensatory time will not count toward the seventeen (17)-workweek entitlement.

Eligible employees may use compassionate leave, if available, prior to using unpaid leave. Compassionate leave and catastrophic leave shall be deducted from the seventeen (17)-workweek entitlement.

2. To care for the employee's spouse, domestic partner, child, or parent with a serious health condition

Accrued paid vacation and Family Sick Leave, in accordance with Section 503.A.4.a., shall be used prior to unpaid leave and shall be deducted from the total seventeen (17)-workweek entitlement.

Employees may choose to use accrued compensatory time. The use of compensatory time will not count toward the seventeen (17)-workweek entitlement.

Eligible employees must use compassionate leave and/or catastrophic leave, if available, prior to using unpaid leave. Compassionate and catastrophic leave shall be deducted from the seventeen (17)-workweek entitlement.

3. For a serious health condition that makes the employee unable to perform the functions of the employee's job

Accrued paid medical, vacation, compassionate, and/or catastrophic leave, if eligible and available, and personal leave day must be used prior to unpaid leave and shall be deducted from the total seventeen (17)-workweek entitlement. Employees may choose to use accrued compensatory time. The use of compensatory time shall not count toward the seventeen (17)-workweek entitlement.

If an employee is requested to submit a Certification of Healthcare Provider statement, the form shall be completed and returned to his or her supervisor within two (2) weeks.

An employee and spouse or domestic partner who are both employed by the City of Tempe are permitted to take only a combined total of seventeen (17) workweeks of leave during the twelve (12) calendar month period if the leave is taken for the birth or adoption of a child or to care for a sick parent.

Employees on unpaid leave continue to accrue benefits (including Mediflex) except medical and vacation leave. Service credits also continue to accrue. Employees on unpaid leave do not receive holiday pay, bereavement leave, or court leave. (See Section 501.A., Subsection 3.)

Employees returning to the same position from unpaid leave shall be returned to the same hourly rate they had prior to commencement of leave.

### **C. Outside Employment**

Employees are not permitted to engage in unauthorized outside employment while on Industrial Accident Leave, Medical Leave, FMLA Leave, Compassionate and Catastrophic Leave, or Long-Term Disability in accordance with Rule 4. Section 406. B.19.

## **Section 509: Optional-Exempt Leave**

### **A. Guidelines**

The City Manager, Department Managers, Deputy Managers, and other exempt staff designated by the City Manager are eligible to receive Optional-Exempt Leave. Any eligible employee shall routinely work fifty (50) hours or more per week to qualify for optional exempt leave.

### **B. Schedule of Benefits**

Each January 1, eligible qualified employees receive exempt-leave credit according to the following schedule:

<b>Employee Classification</b>	<b>Exempt Leave</b>
Department Managers, Deputy Managers & above	7 Days
Others	3 Days

The Exempt-Leave credit can be used at the employee's discretion with his or her supervisor's approval. Exempt-leave credits shall be used before the end of the last full pay period paid in each calendar year or be forfeited.

Eligible employees hired or promoted after July 1, receive a pro-rated Exempt Leave credit for the year they were hired.

## **Section 510: Compassionate Leave**

### **A. Guidelines**

Regular employees may voluntarily transfer unused:

1. Vacation and medical leave to another regular employee to provide the recipient with supplemental paid leave during an extended non-job related, seriously incapacitating illness or injury as defined under the Family and Medical Leave Act (FMLA), or have extenuating circumstances approved by the City Manager.
2. Vacation leave to another regular employee to provide the recipient with supplemental paid leave during a time when he or she is required to care for a spouse, child or parent with a serious health condition as defined under the Family and Medical Leave Act, or have extenuating circumstances approved by the City Manager.

### **B. Leave Conversion**

The value of donated leave is based on the donor's hourly rate of pay as it relates to the recipient's hourly rate of pay.

Donated vacation leave shall be converted to a dollar amount by multiplying the number of hours donated by the donor's regular hourly rate of pay. The number of hours transferred to the recipient shall be calculated by dividing this dollar amount by the recipient's regular hourly rate of pay. Medical leave transferred from donor to recipient shall be calculated using the same method.

### **C. Compassionate Leave Requests**

An employee wishing to request Compassionate Leave shall:

1. Have a non-job related seriously incapacitating illness or injury as certified by a physician, or have extenuating circumstances approved by the City Manager, which prevents his or her return to work for an extended period.
2. Have exhausted all available medical, vacation, personal leave day, and compensatory balances, and must not be receiving Long-Term Disability (LTD) benefits.

Submit a physician authorized Request for Compassionate Leave form.

### **D. Compassionate Leave Donations**

An employee wishing to donate paid leave shall:

1. Be a regular employee on active status. (Donations of medical or vacation leave shall be made before the last day of regular employment.)
2. Have successfully completed his or her original probationary period. Retain a minimum of forty (40) hours each of vacation and medical

leave for his or her own use (48 hours for Fire Battalion Chiefs and 56 hours for Firefighters working 56-hour workweeks).

3. Designate a recipient by completing a City of Tempe Leave and/or Premium Pay Request form (Compassionate Leave section) and submitting it to the Human Resources Department.

The Compassionate Leave option is terminated if the recipient is no longer eligible for leave under the FMLA, returns to his or her regular work schedule, separates from the City, or otherwise fails to meet the eligibility requirements.

All donor names are kept confidential.

#### **E. Documentation**

Upon request, the recipient shall provide updated documentation as to the nature and expected duration of the illness or injury. In addition, the recipient is required, every thirty (30) days, to furnish his or her supervisor with reports (verbal or written) regarding his or her status and intent to return to work.

#### **F. Intermittent Use of Compassionate Leave**

A recipient who returns to work on a part-time basis may use compassionate leave intermittently until he or she is able to resume his or her regular duties.

#### **G. Unused Leave**

Unused leave may not be transferred to another recipient. Any unused leave shall be returned to the donor.

#### **H. Outside Employment**

Employees are not permitted to engage in unauthorized outside employment while on compassionate leave.

## **Section 511: Catastrophic Leave**

### **A. Guidelines**

Paid leave up to one hundred sixty (160) hours per calendar year (pro-rated for part-time, benefited employees) is available to eligible employees for either his or her own non-job related illness or injury or to care for a spouse, domestic partner, child (step), or parent with a serious health condition as defined under FMLA. An employee is needed to care for a family member when the family member is unable to care for his or her own basic medical, hygienic, nutritional or safety needs, or is unable to transport his or herself to a healthcare provider.

### **B. Definition**

Catastrophic illness or injury is a serious, non-job related, incapacitating illness or injury as certified by a physician.

### **C. Catastrophic Leave Requests**

An employee wishing to request Catastrophic Leave shall:

1. Be a regular, full- or part-time, benefited employee for a minimum of six (6) months;
2. Have a non-job related, seriously incapacitating illness or injury which prevents his or her return to work for at least sixty (60) consecutive calendar days as certified by a physician; or have a spouse, domestic partner, child or parent with a serious health condition as defined under the Family and Medical Leave Act (FMLA), which prevents the employee's return to work for at least sixty (60) calendar days;
3. Have exhausted all paid leave balances, including available medical, vacation, personal leave day, compensatory, and compassionate leave;
4. Not receiving Long-Term Disability benefits;
5. Submit a physician authorized Request for Catastrophic Leave form to his or her supervisor; and
6. Comply with reasonable terms of any provider prescribed treatment plan.

Employees shall repeat the request process for each incident that qualifies for catastrophic leave.

### **D. Authorized Use**

1. Unused Catastrophic Leave is not carried forward.
2. Catastrophic Leave may be used consecutively or intermittently up to the total available hours as long as the employee has exhausted his or her medical, vacation, compensatory, and compassionate leave, and personal leave day and is not receiving Long-Term Disability benefits.

**E. Schedule of Benefits**

Eligible employees shall be paid their regular hourly rate times the number of hours normally worked, excluding overtime, up to eighty (80) hours per pay period until a total of one hundred sixty (160) hours per calendar year has been used. (Part-time employees receive a pro-rated benefit.)

Employees on Catastrophic Leave do not accrue medical and vacation leave or receive holiday pay, jury duty, court and/or military leave.

Employees who return to work on a part-time basis (minimum of twenty (20) hours per workweek) or work on a reduced work schedule shall accrue a pro-rated medical and vacation leave benefit for the duration of their part-time work schedule.

**F. Outside Employment**

Employees are not permitted to engage in unauthorized outside employment while on catastrophic leave.

## Section 512: Family and Medical Leave Act

### A. Guidelines

The purpose of the Family and Medical Leave Act of 1993 (FMLA) is to balance the demands of the workplace with the needs of families; and to promote the stability and economic security of families while increasing employee loyalty, involvement, and commitment to the operation and goals of the employer. The stated intent of Congress is for employer and employee to work together in a spirit of mutual cooperation and respect, recognizing that FMLA benefits for employees shall be granted in a manner that accommodates the legitimate interests of the employer.

### B. Eligibility

Employees are eligible for FMLA benefits if the following criteria are met:

1. The employee has been employed for at least twelve (12) months (not necessarily continuously.)
2. The employee has worked for a minimum of one thousand two hundred fifty (1,250) hours during the twelve (12) month period immediately preceding the commencement of the FMLA leave.
3. Full-time, exempt employees are presumed to have met the 1,250 hours of service required for eligibility if they have worked for the City at least twelve (12) months, and have not otherwise been off work for extended periods of time during the previous twelve (12) month period.

### C. Advance Notice Requirement

Employees are required to provide the City with at least thirty (30) days advance notice when the need for leave is foreseeable, or within two (2) days of becoming aware of the need for leave when the leave is unforeseen. ***Failure to provide the required notice may result in denial of leave under the FMLA. It is not necessary for the employee to specifically request leave as FMLA qualifying. If the qualifying conditions are present, the City can designate the leave as Family and Medical Leave and must so notify the employee immediately.***

### D. FMLA Leave Entitlement

1. The City of Tempe allows eligible employees to take up to seventeen (17) workweeks of leave (FMLA provides for up to twelve (12) weeks of unpaid leave), whether paid or unpaid, within a calendar year under certain qualifying conditions.
2. FMLA leave may be taken intermittently or on a reduced schedule (reduced hours per day or reduced workweek) with the agreement of the employer when medically necessary for the serious health condition of the employee or family member. Intermittent or reduced schedule leave is subtracted from the total seventeen (17) workweek FMLA leave entitlement. Employees are expected to make every effort

to schedule intermittent leave in advance with consideration for the legitimate business interests of the City.

3. An employee using intermittent leave may be temporarily transferred to an available position for which he or she qualifies and which better accommodates recurring periods of leave. The alternative position must have equal pay and benefits, but not necessarily equal duties.
4. An employee and spouse or domestic partner employed by the City are entitled to a combined total of seventeen (17) weeks of leave if the leave is taken for the birth or adoption of a child or to care for a sick parent.

#### **E. FMLA Computation**

FMLA allows employers to adopt one of the following methods for computing the twelve (12)-month period:

1. A calendar year basis;
2. Any fixed twelve (12) month period including the employee's anniversary date of hire, fiscal year, or year required by state law;
3. Twelve (12) months measured forward from the date an employee's first FMLA leave begins; or
4. A "rolling" twelve (12) month period measured backward from the date an employee uses FMLA leave.

The City has chosen to use a calendar year basis.

#### **F. Qualifying Circumstances**

Employees may use FMLA leave for the following reasons:

1. For the birth and care of a newborn child, or the placement of a child for adoption or foster care

The FMLA entitlement for the birth or placement of a child expires at the end of the twelve (12)-month period following the birth or placement.

2. To care for the employee's spouse, domestic partner, child, or parent with a serious health condition.
3. For the employee's own serious health condition that renders him or her unable to perform the functions of his or her job.

#### **G. Medical Certification**

1. The employee may be required to provide medical certification from a health care provider for any absence of more than three (3) calendar days.
2. To support requests for Family and Medical Leave, the employee may be required to complete "The Certification of Health Care Provider" form available under FMLA on the Human Resources Intranet website

at <http://www1.tempe.gov/hr/forms/hrforms.htm> or in Human Resources. Failure to provide the required certification may result in denial of leave under the FMLA.

3. The employee may be required to provide periodic status updates to his or her supervisor.

#### **H. Other FMLA Requirements**

1. The City shall maintain the employee's coverage under any group health plan under the same conditions as if the employee was continuously employed. An employee who chooses not to retain coverage during FMLA Leave is entitled to be reinstated on the same terms as prior to taking leave.
2. An employee on FMLA Leave is responsible for payment of his or her share of dependent benefit coverage costs. The employee must contact Benefits in Human Resources to arrange a payment schedule.
3. Any costs incurred by the City are recoverable from the employee in the event the employee does not return from leave, except for reasons beyond the employee's control.
4. Employees shall be restored to a position with equivalent pay and benefits upon his or her return to work. An employee is considered to have returned to work after working thirty (30) calendar days.
5. A fitness for duty release may be requested before the employee's return to work.

#### **I. Outside Employment**

In accordance with Rule 4. Section 406.B.19 of the Personnel Rules and Regulations, employees are not allowed to work at outside employment while on FMLA. Any exceptions to this rule shall require prior written approval by the employee's Department Manager and must not constitute a conflict of interest (See Rule 6. Section 602).

#### **J. Compensation during FMLA Leave**

1. Priority of Leave Use

Employees using FMLA leave will be required to use available paid leave prior to unpaid general leave. Paid or unpaid leave, except for compensatory leave, which can be used at the employee's discretion, will be deducted from the total FMLA entitlement.

Paid vacation leave shall be used prior to unpaid leave, and will be deducted from the total seventeen (17)-workweek entitlement, to care for a spouse, domestic partner, child, or parent with a serious health condition.

Paid medical and vacation leave may be used for the birth and care of a newborn child or placement of a child for adoption or foster care.

Both male and female employees may use paid medical leave for the birth or adoption of a child.

Paid medical and vacation leave will be used for the employee's own serious health condition.

Compassionate and/or Catastrophic Leave may be coordinated with FMLA if an employee has exhausted his or her medical and/or vacation leave.

Paid Family Sick Leave shall be used prior to unpaid leave, and will be deducted from the total seventeen (17)-workweek entitlement, to care for a spouse, domestic partner, child, or parent with a serious health condition. Family Sick Leave is limited to fifty-six (56) hours per calendar year for regular, full-time employees; sixty-four (64) hours per calendar year for Fire Battalion Chiefs; and seventy-two (72) hours per calendar year for Firefighters. Regular, part-time employees are limited to a prorated maximum.

## 2. Compensatory Time

Employees cannot be required to substitute accrued compensatory time for unpaid FMLA leave. However, employees may voluntarily elect to use their accrued compensatory time for reasons that would qualify for FMLA leave. Compensatory time will not be deducted from the seventeen (17)-workweek entitlement.

## K. Definitions

1. **Child** is defined as a biological, adopted, or foster child, stepchild or legal ward of the person having day-to-day care for the child. It may also include a son or daughter who is eighteen (18) or more years old if he or she is incapable of self-care because of a physical or mental disability.
2. **Continued treatment by a health care provider** is defined as:
  - a. The employee or family member is treated two (2) or more times for the injury or illness by a health care provider;
  - b. The employee or family member is treated on at least one (1) occasion, which results in a regimen of continuing treatment under the supervision of a provider (medication, therapy) to resolve the condition; or
  - c. The employee or family member is under the continuing supervision of, but not necessarily being actively treated by a health care provider due to a serious long-term or chronic condition or disability which cannot be cured (Alzheimer's, terminal disease) but may not require active treatment.
  - d. Treatments for allergies, stress and substance abuse are covered by this clause if all the conditions of the regulations are met;

however, the inclusion of substance abuse does not prevent an employer from taking action against an employee who is unable to satisfactorily perform the essential functions of the job due to substance abuse.

3. **Domestic Partner** as defined in Rule 3. Section 301. D. In order to include a Domestic Partner as a covered family member under FMLA, the employee shall submit to Human Resources a completed Domestic Partner Affidavit.
4. **Parent** is defined as biological parent or individual that was responsible for the day-to-day care of the employee as a child. Parents-in-law are not included in this definition.
5. **Serious Health Condition** is defined as an illness, injury, impairment, or physical or mental condition that involves:
  - a. Any period or incapacity or treatments in connection with, or subsequent to, inpatient care in a hospital, hospice or residential medical facility.
  - b. Any period of incapacity requiring absence from work, school or other regular daily activities of more than three (3) consecutive calendar days that also involves continuing treatment by or under the supervision of a health care provider. Non-work days shall be counted towards determining the period of eligibility. However, only the employee's actual scheduled work days shall be designated as FMLA Leave.
  - c. Continuing treatment by or under the supervision of a health care provider for a chronic or long-term health condition that is incurable or so serious that if not treated would likely result in a period of incapacity for more than three (3) consecutive calendar days, or for prenatal care.
6. **Spouse** is defined as husband or wife as defined under state law.

## **Section 513: Voting Leave**

### **A. State Law**

Employees shall have adequate time to vote. To comply with the Arizona State Law (ARS 16-402), the City of Tempe shall allow employees paid leave from work when the following conditions are met:

1. Eligible employees (those employees who are entitled to vote in an election held pursuant to Title 16 of the Arizona Statutes) are entitled to vote at a primary or general election held within the State of Arizona on the day of election.
2. There is less than three (3) consecutive hours between the opening of the polls and the beginning of the employee's regular work shift or less than three (3) consecutive hours between the ending of his or her work shift and the closing of the polls.

### **B. Guidelines**

The employee must obtain approval before the day of election from his or her supervisor.

1. Two (2) hours is the maximum time allowed for voting. The time off with pay must be used to vote.
2. If so requested, an employee must be able to show proof of being a registered voter.

No employee is to be denied the right to vote during work hours should his or her regular shift fall under the criteria listed in (A.) above.

## **Section 514: Victim Rights Leave**

### **A. State Law**

Employees are entitled to unlimited unpaid leave under A.R.S. Title 8, Article 7, Chapter 3 and Title 13, Chapter 40, to attend certain criminal proceedings if they were the victim of a crime or the immediate family member of a person who was killed or incapacitated by a crime.

### **B. Guidelines**

If the employee's leave creates an undue hardship on the City, his or her leave may be limited. Employees may use vacation and compensatory leave, and/or their personal leave day.

## **Section 515: Employee Assistance Program**

### **A. Guidelines**

The Employee Assistance Program (EAP) is a workplace benefit, sponsored by the City of Tempe, which covers all eligible employees and their covered family members. The EAP offers managers and employees tools and resources to identify and resolve productivity and job-performance-based problems, which can result from personal crises, issues, or concerns.

The City of Tempe assures all employees that use of the EAP will not be used to determine job security or be a consideration in a promotional opportunity. Any documentation placed by the supervisor in the employee's personnel file shall relate solely to job performance and shall only contain a description of the performance issue(s).

### **B. EAP Services**

All regular employees are eligible for no-cost, confidential assistance, by calling the EAP, with any of the following concerns:

- Aging Parents
- Alcohol or Drug Problems
- Anxiety
- Compulsive Gambling
- Death and Dying
- Depression
- Dual Careers
- Eating Disorders
- Financial or Legal Concerns
- Job Burnout
- Marital and Relationship Problems
- Parent-Child Conflicts
- Physical Abuse
- Retirement Concerns
- Sexual Problems
- Single Parenting
- Stress
- Workplace Problems
- Other Troubling Problems

EAP services for eligible employees include, but are not limited to: confidential, appropriate, and timely face-to-face assessment services; legal and mediation referral services; and limited counseling if appropriate. All information concerning the employee and his or her family's participation in the program shall remain confidential in accordance with applicable state and federal laws. Supervisors have unlimited telephonic consultation privileges for concerns related to the identification and resolution of employee behavior and work performance.

For information on how to access the EAP, employees and supervisors may contact Employee Benefits in Human Resources or access the Human Resources website at <http://www.tempe.gov/hrben.eap.htm>

### **C. Referrals**

#### **1. Self-Referral**

Employees and their eligible family members may seek assistance through the EAP individually, or at the encouragement and with the support of their family members, friends or co-workers. No referral is necessary.

#### **2. Supervisor Referral**

When job performance problems or other information indicates that an employee may be experiencing some difficulty, the supervisor may remind the employee of the availability of the EAP and suggest that the employee participate in the program. The supervisory referral to the EAP is an option that allows the supervisor to provide a resource to employees, thus helping employees resolve their employment issue(s). Unless extraordinary circumstances exist (see Mandatory Referral), it is the employee's decision whether or not to use the services of the EAP. Supervisory guidelines are as follows:

- a. Any time a supervisor has a concern with an employee's job performance or behavior at work, the supervisor must address that concern with the employee immediately. A supervisory referral to the EAP shall be initiated only after a supervisor has discussed his or her concerns with the employee.  
  
If a supervisor would like to meet with an employee to make a supervisory referral to the EAP, he or she shall contact Human Resources for guidance.
- b. The supervisor shall meet with the employee in a private setting.
- c. The supervisor shall state that the reason for the meeting is to discuss the employee's performance issues and how the supervisor can help the employee resolve those issues.
- d. Using specific examples, the supervisor must explain his or her description of the performance problem(s).

- e. The supervisor shall use the City's performance improvement and/or disciplinary processes to resolve any performance issues, if necessary.
- f. The supervisor and the employee must establish and agree on a Performance Improvement Plan (PIP) for the employee, which addresses the identified problem area(s) and clearly states the expected performance objectives and a realistic time frame in which the supervisor expects to see a positive change in the employee's performance.
- g. The supervisor shall define any possible consequences for the employee if the performance objectives are not met in the identified time frame.
- h. The supervisor will acknowledge that workplace issues or concerns could often have an affect on work performance and suggest that the employee use the EAP.
- i. The supervisor will provide the employee with the City's EAP brochure.
- j. The supervisor shall explain to the employee that his or her performance shall improve or the disciplinary process will continue whether or not he or she utilizes the EAP.

### 3. Mandatory Referral

The supervisor shall immediately contact his or her Department Manager and Human Resources for guidance on how to proceed when he or she believes that an employee is exhibiting the following signs of extreme distress:

- Impaired balance
- Inappropriate verbal outbursts
- Odor of alcohol on the employee's breath
- Slurred or incoherent speech
- Obvious hostility or aggression (verbal or physical) directed at himself or herself, or others
- Significant or extreme mood changes with no apparent explanation
- Significant or extreme behavioral changes with no apparent explanation
- Violent or destructive behaviors directed at equipment, property, or persons
- Threats of harm to him or herself or others
- Violation of a state or federal statute

If the supervisor believes the employee is in immediate danger of harming him or herself or others, the supervisor shall notify the Police

Department immediately and Human Resources as soon as possible, once the situation is under control.

A mandatory supervisor referral to the EAP requires the employee to participate in the EAP as a condition of continued employment. Mandatory EAP referrals do not replace disciplinary action. In the event of a mandatory referral, the supervisor shall be informed if the employee was seen by the EAP and whether or not the employee is following EAP recommendations. Confidentiality of client information shall be maintained in the highest standards as guided by law and professional ethics.

## **Section 516: Tuition and Book Reimbursement**

### **A. Guidelines**

The City is dedicated to providing personal and professional development opportunities for all regular employees. These opportunities may be required to expand job knowledge and upgrade skills, help meet the minimum requirements for a City job, prepare the employee for another line of work within the City, or complete a college degree program. Reimbursement shall be for courses and degrees related to a specific City job or function.

This program is not the only training and development resource available to City employees; however, it is an essential benefit that provides additional learning opportunities for employees.

#### **1. Tax Implications**

The City's Tuition Reimbursement Program complies with Section 127 of the Internal Revenue Service Tax Code, which allows for tax-free exemption of employer provided educational assistance (up to \$5,250 annually) for undergraduate and graduate level courses.

Reimbursements for coursework shall not be subject to income tax and FICA tax withholding as long as Section 127 is effective and applicable.

For guidance on the tax laws to tuition and book reimbursement, employees should contact their accountant or tax advisor.

#### **2. Employee Eligibility**

- a. All regular full- or part-time employees who have fulfilled the original probationary requirements for their jobs are eligible. Courses taken during the employee's original six-month probationary period may be eligible for reimbursement upon successful completion of probation. An employee, who has a probationary period longer than six (6) months, may be eligible for reimbursement providing the employee has worked for thirteen (13) complete biweekly pay periods.
- b. Regular part-time employees are eligible for reimbursement at a prorated amount.
- c. Temporary employees are not eligible.

#### **3. Maximum Annual Reimbursement**

The total maximum reimbursable amount, including tuition, required books, reimbursable supplies, and related fees, is \$5,000 per calendar year for regular, full-time employees.

Regular part-time employees receive a prorated reimbursement amount based on his or her assigned benefit program (PT twenty (20) = \$2,500; PT thirty (30) = \$3,750).

## **B. Program Eligibility**

### **1. College Courses**

Reimbursement for course work at an accredited college or university shall be pre-approved by the Department Manager and Tempe Learning Center (TLC) prior to registration.

An accredited college or university is one that is recognized by the North Central Association of Colleges and Secondary Schools, or one of five other regional accrediting associations including Northwest Association, Middle States Association, New England Association, Southern Association, or Western Association. Accreditation information is available directly from the school.

### **2. Vocational Courses**

The cost of job-related vocational certifications from recognized and accepted governing associations shall be reimbursed up to 100% of the annual maximum reimbursable sum. All vocational certification courses shall be pre-approved by Department Managers and the Tempe Learning Center prior to registration. The successful completion of a vocational certification program requires demonstration and documentation of proficiency in a specific skill that results in a certificate or license. Workshops, seminars and conferences that provide “certificates of attendance” or “continuing education units” (CEU’s) are not eligible for reimbursement.

#### **Examples of Vocational Course Certifications:**

- CDL: Commercial Driver’s License
- CPM: Certified Public Manager Program (Sponsored by ASU)
- CPA: Certified Public Accountant
- Direct Digital Controls Certificate
- Horticulture Certificate
- MCSC: Microsoft Certified Systems Engineer

### **3. Course Eligibility**

In order to be approved for reimbursement, in addition to the aforementioned criteria, the course shall meet one of the following criteria:

- a. The course is directly related to the employee’s current job; or
- b. The course shall make the employee more promotable within the City, and

- c. Is related to a current City position, which is realistically within the employee's career path; or
- d. The coursework is required in a curriculum program leading to a degree that is required or preferred on a current City job description.

### **C. Covered Expenses**

Reimbursement includes the cost of tuition and required books, supplies (see Note below), and related fees. Related fees include standard expenses like financial aid fees and lab fees. Costs not covered include, but are not limited to, parking, transportation, recreation fees, and books that are not required for the course.

Note: In order for the City and its employees to take advantage of the tax exemption under Section 127 of the IRS Tax Code, tools and supplies (excluding required books) that can be retained by the student after completing the course, as well as recreation fees, are not reimbursable.

### **D. Pre-Approval Process**

In addition to the requirements previously described, the following criteria apply to tuition and book reimbursement: Employees who intend to use the tuition reimbursement benefit for college or vocational courses shall be pre-approved through the electronic Training Server Application prior to enrollment in the course(s).

1. The employee's department manager and Tempe Learning Center shall pre-approve all electronic submissions. Upon approval, the employee will receive an electronic confirmation of pre-approval referred to as the "Tuition Pre-Approval Notification." This confirmation shall be printed and used for submission for reimbursement after successfully completing the course(s).

To qualify for reimbursement for a college course, the employee shall receive a grade of "C" or better for an undergraduate course and receive a grade of "B" or better for a graduate course. Official grade reports shall be submitted with the Tuition Pre-Approval Notification.

2. To qualify for reimbursement, the employee shall be a regular full- or part-time City of Tempe employee who has fulfilled his or her original probationary requirements at the time the request for reimbursement is submitted.
3. Request for tuition and book reimbursement shall be submitted to the designated employee authorized to approve tuition reimbursement for the requesting employee's department within twelve (12) months after the successful completion of the course.
4. Tuition and book reimbursement requests shall be received in time to be included in the last paycheck in December, in order to be processed in the current calendar year and paid from the current year's

allowance. The request shall have been approved prior to enrollment in the course, and all required documentation shall be assembled and submitted to Accounting by the pay period end date that precedes the last payday in December. Requests received after this date shall be processed in the following calendar year.

5. The City of Tempe has the right to audit the employee's educational and financial records that may be contained in the employee's records held at the institution attended. Any right that the employee may have pursuant to the Family Educational Rights and Privacy Act of 1974 or any similar laws is waived by acceptance of the tuition and book reimbursement. If access to such records is denied, the City shall have no obligation to make reimbursement.

#### **E. Financial Assistance**

Employees who receive financial assistance for their education from another source must disclose the source and amount at the time they apply for course pre-approval. If an employee receives 100% funding for his or her education from another source, the City shall not provide reimbursement.

Under certain circumstances, coordination with other funding sources is possible. In all instances, total financial assistance and tuition and book reimbursement shall not exceed the educational expenditures incurred.

#### **F. How to Apply for Tuition and Book Reimbursement**

1. Apply for pre-approval through the Training Server Application located on your computer desktop.
2. Retain the electronic email notification of pre-approval and register for the approved course(s).
3. Within twelve (12) months after successful completion of the course(s), attach the following materials to the pre-approval notification:
  - Original invoice of the payment/sales receipt(s),
  - Course description,
  - Course syllabus indicating all required books and/or materials, and
  - An official grade report ("C" or better for undergraduate course(s) and "B" or better for graduate course(s)).
4. Forward the tuition reimbursement documentation to the designated employee authorized to approve tuition reimbursement for your department. He or she will authorize reimbursement and forward all documentation to Payroll for processing.
5. After receipt of the required information, reimbursement shall be made in the employee's payroll check.

## **G. Educational Partnership Program**

The City of Tempe Educational Partnerships Program assists employees who wish to earn a degree by attending courses with their fellow employees. Partnerships have been formed with several metro-area colleges and universities. Contact the Tempe Learning Center (TLC) for the names of current partnerships and degree programs offered.

Unlike the City's Tuition Reimbursement Program, the Educational Partnerships Program includes the following parameters and benefits:

1. Interested City employees sign an "Agreement" stating that they shall continue the Partnership Program they have entered through completion.
2. The City pays all costs so there is no out-of-pocket expense to the employee. For information on the maximum reimbursable amount, see Subsection A.3. Maximum Reimbursable Amount, as mentioned above.
3. Classes are usually held after 5:00 p.m. on City property (e.g. at the TLC Classroom, Fire Station Classroom, or similar City facilities).
4. Partnership Program participants remain with the same group of employees throughout the course of the degree program.
5. The City determines which degree programs shall be offered based on employee feedback.
6. Students shall receive a grade of "C" or better for undergraduate courses and a grade of "B" or better for graduate-level courses. If a student falls below this specific grade requirement, the student shall reimburse the City the cost of tuition and books.

## **Rule 6**

### **Section 601: Individual Development Plan (IDP)**

#### **A. Guidelines**

The Individual Development Plan (IDP) is a voluntary program that is used to identify and document the personal development goals of an employee, whether working as a member of a team or as an individual. It is also used to identify and document the supervisor's commitment to helping the employee reach their personal development goals. The IDP is developed through meetings and discussions between the employee and his or her supervisor. The IDP is not intended to assign work to employees, nor is it intended to be used as a performance review. Therefore, the IDP process is independent of, and not related to, any pay increase. An employee's lack of progress toward the completion of their personal development goals is not in itself grounds for any type of disciplinary action.

#### **B. Supervisor's Role**

Annually supervisors shall provide an opportunity for each employee to develop an IDP. Once developed, the employee and their supervisor may review the IDP agreement together. During the review, progress toward the employee's goal(s) is discussed along with any additional needs that the employee may have determined to be necessary in order for him or her to achieve his or her goal(s). Goals may be revised, added, or deleted during the review process. A sample format is available on the Human Resources Intranet website at [www1.tempe.gov/hradmin/HRforms.htm](http://www1.tempe.gov/hradmin/HRforms.htm).

The supervisor's role in the IDP process is to offer suggestions for the employee's development within his or her own career field and to provide mentoring, encouragement, and resources whenever possible, to enable the employee to progress toward their personal goals. Supervisors may agree to, among other things, provide resources, revise work schedules, provide training, and offer special assignments. The supervisor should honor his or her commitment to the IDP agreement in order to ensure that the employee has every opportunity to succeed in attaining his or her goals.

It should be noted that in some cases employees may suggest goals outside the scope of their present career field. In these cases the supervisor's ability to help the employee may be somewhat limited by the available knowledge, experience, or resources associated with that employee's specific personal development goals. An employee's IDP is maintained in the supervisor's working file for twelve (12) months.

## **Section 602: Outside Employment, Activity, or Enterprise**

### **A. Guidelines**

Employees may engage in employment other than their job with the City under the following conditions:

1. Before entering into outside employment, prior written approval by the Department Manager on a City of Tempe "Outside Employment Request and Affidavit" form shall be obtained and sent to Human Resources for placement in the employee's personnel file. The employee shall report and obtain re-approval for changes, additions, or deletions to his or her outside employment circumstances from the Department Manager within thirty (30) days of such changes. Re-approval shall be forwarded to Human Resources for placement in the employee's personnel file.

The employee may request the Human Resources Department convene an Employee Advisory Hearing Committee should his or her Department Manager deny approval or re-approval of the employee's Outside Employment Request. The Advisory Hearing Committee shall consist of and be conducted as follows:

- a. Members of the Committee shall be from each of the following employee groups:
  - 1) The President or designee of the United Phoenix Firefighters Association Local 493, Tempe Chapter;
  - 2) The President or designee of the Tempe Police Officer's Association;
  - 3) The designee of Tempe City Management;
  - 4) The Tempe Supervisor's Council (TSC) Chairperson or designee; and
  - 5) The Tempe Employees' Council (TEC) Chairperson or designee.
- b. A Chairperson shall be chosen from the five (5) Committee members. The Chairperson shall not vote except in the case of a tie.
- c. All members of the Committee shall be regular City employees.
- d. The Advisory Hearing Committee conducts an informal hearing without courtroom procedures or formal rules or procedures of evidence, which is facilitated by the Human Resources Department. Attorney representation is forbidden. All involved parties are given an opportunity to present their position.

- e. The Committee attempts to mediate the dispute and shall vote on the issues by secret ballot. A majority vote determines the Advisory Hearing Committee's recommendation to the City Manager.
  - f. In the case of a Department Manager who has denied continued outside employment to an employee who was previously approved, the employee shall be allowed to continue the disputed outside employment until a final decision is rendered by the City Manager.
  - g. The City Manager's written decision shall indicate the basis for the decision and the Advisory Hearing Committee's recommendation. The decision of the City Manager is final.
- 2. Outside employment does not constitute a conflict of interest, or the appearance of a conflict of interest with City duties and responsibilities.
  - 3. Outside employment is not inconsistent or incompatible with the employee's City duties and responsibilities, working hours, assignments, or emergency assignments. The number of hours worked at outside employment may be restricted.
  - 4. Outside employment activities shall not be conducted at any time during the employee's City of Tempe on-duty work shift or on site. On site includes City vehicles, property, facilities, meal periods and work breaks. Employees may conduct outside employment activities during meal periods and work breaks with Department Manager or Human Resources Manager approval.
  - 5. No City of Tempe property or equipment shall be used for outside employment purposes at any time. This restriction includes computer hardware and software, email, Internet, copiers, faxes, typewriters, word processors, calculators, office equipment and supplies, telephones, pagers, vehicles, heavy equipment, furniture, buildings and facilities.
  - 6. Outside employment services that are directly related to an employee's City of Tempe job shall not be provided to the employee's City of Tempe job-related external customers or contacts. Incidental outside employment contact is acceptable.
  - 7. City of Tempe employees shall not solicit, market, or make recommendations about their outside employment activities to his or her City of Tempe position-related external customers or contacts.

#### **B. Employee Services Directory**

Employees may provide approved employee services or products listed in the Employee Services Directory available in Human Resources and on the Internet at [www.tempe.gov/hrben/discounts.htm](http://www.tempe.gov/hrben/discounts.htm).

## **Section 603: Political Activity**

### **A. Guidelines**

All employees shall avoid all political activity in Tempe municipal elections.

1. No employee shall solicit or attempt to solicit support for a candidate or political party involved in a Tempe municipal election from any employee or appointed official.
2. No employee shall take part in the campaign of a candidate participating in a Tempe municipal election.
3. Employees may exercise their rights as citizens to vote and to express opinions as an individual citizen, but not as a representative of the City of Tempe.
4. Employees may exercise their right as citizens to sign petitions during non-work hours and not in uniform.
5. No paid employee shall use his or her position to sell, solicit, or distribute any campaign material during working hours and/or in a uniform used by or identified with the City government.
6. No paid employee shall use his or her position to introduce, guide, or recommend any candidate for public office on City property.

### **B. Public Office**

No paid employee shall seek election to public office with the City of Tempe while still employed by the City.

## **Section 604: Gifts and Gratuities**

No one seeking appointment or promotion to a City position or appointive office shall directly or indirectly give any money, service or other item to any person in connection with their appointment or propose appointment.

No employee or individual holding appointed office shall accept a fee, gift, service or other item in the course of performing the duties and responsibilities of his or her position, if the gift is given in hope of receiving a favor or preferred treatment or if the gift is given after receipt of the favor or preferred treatment.

## **Section 605: Grievance Procedure**

### **A. Guidelines**

Any alleged violation of a specific provision of this resolution is subject to review through the grievance procedure. The grievance procedure is not to be used as a means of collectively bringing about changes in wages, hours or other conditions of employment.

### **B. Employee Responsibility**

The aggrieved classified employee is responsible for instituting the first step of the grievance procedure within fifteen (15) calendar days after the employee becomes aware of the situation or can be reasonably expected to be aware of it.

Time limits specified in the grievance procedure may be waived at any time by mutual consent of the parties. Failure to submit the grievance in accordance with these time limits, or to appeal a grievance to the next step without such a waiver, constitutes abandonment of the grievance. A grievance may be terminated at any time upon receipt of a signed statement from the employee requesting such a termination.

### **C. Supervisor Responsibility**

Failure at any level of supervision to respond to a grievance in accordance with the time limits, as specified in Subsection B, and without a waiver as specified in Subsection B, shall automatically advance the grievance to the next level of supervision. A supervisor or manager's decision shall be in writing.

### **D. Grievance 'Filing' Process**

Grievances shall be in writing, signed by the employee, and include the following information:

1. A clear and concise statement of the grievance and the facts upon which it is based;
2. The section(s) of the Tempe "Personnel Rules and Regulations" that was violated; and
3. The remedy requested.

### **E. Grievance 'Response' Process**

The response to a grievance shall be in writing, signed by the supervisor, and include the following information:

1. A clear and concise response to the grievance and the facts upon which it is based;
2. The section(s) of the Tempe "Personnel Rules and Regulations," which apply to the grievance and the section(s) upon which the decision is based; and

3. Denial or acceptance of the proposed remedy or an alternative.

#### **F. Grievance 'Follow-up' Process**

Employee grievances are handled as follows:

1. The employee attempts to resolve the grievance informally with the immediate supervisor or the next level of supervision in the employee's chain of command responsible for the action or decision being grieved.
2. If informal discussions do not resolve the matter, the employee submits a written statement to the supervisor stating the basis of the grievance and the remedy sought. Within five (5) working days of receipt of the grievance, the supervisor meets with the employee, discusses the grievance, and renders a written decision including the reasons for the decision.

#### **G. Grievance 'Appeal' Process**

If the employee chooses to appeal the grievance further, the grievance shall be submitted to the next level of supervision within five (5) business (M-F, 8-5) days of receipt of the supervisor's decision. Within five (5) business days, that supervisor meets with the employee, discusses the grievance, and renders a written decision and the basis for it within three (3) business days of the meeting. This appeal process continues through the chain of command to the City Manager or designee.

1. At each succeeding step the employee shall state in writing the reason for his or her appeal including why the previous response was unsatisfactory.
2. At each succeeding step the supervisor or manager shall respond in writing to the grievance stating the reason(s) and basis for the decision that was rendered.
3. At any step of the process, the employee may be accompanied and/or represented by a Tempe Employees' Council (TEC) representative or any other regular City employee.
4. For information on filing deadlines imposed by the Arizona Civil Rights Division of the Attorney General's Office and the EEOC, please see Rule 4. Section 406.E.10.
5. The decision of the City Manager is final and is not grievable.

Copies of all completed grievances should be forwarded to the Human Resources Department for inclusion in the employee's personnel file.

#### **H. Advisory Hearing Committee**

Before making a final decision, the City Manager or designee may elect to convene an Advisory Hearing Committee. The Advisory Hearing Committee shall be chosen and conducted as follows:

1. The City Manager chooses two (2) members.
2. The complainant chooses two (2) members.
3. In addition, a chairperson is selected by the four (4) committee members from a list of seven (7) external mediators requested from either the American Arbitration Association or the Federal Mediation and Conciliation Service. The chairperson shall not vote except in case of a tie.
4. All members of the Committee, except the chairperson, shall be regular City employees who have not been directly involved in the grievance.
5. The Advisory Hearing Committee conducts an informal hearing without courtroom procedures or formal rules or procedures of evidence. Attorney representation is forbidden. All involved parties are given an opportunity to present their position.
6. The Committee attempts to mediate the grievance and shall vote on the issues by secret ballot. A majority vote determines the Advisory Hearing Committee's recommendation to the City Manager.
7. The decision of the City Manager is final. The City Manager's written decision shall indicate the basis for the decision and the Advisory Hearing Committee's recommendation.

## **Section 606: Tempe Employees' Council (TEC)**

### **A. Guidelines**

The Tempe Employees' Council (TEC) serves as an advisory group to the City Manager and is not a public body under the State of Arizona Open Meeting Act, A.R.S. 38-431. The purpose of the Tempe Employees' Council (TEC) is to work with the City Manager to:

1. Secure better employer and employee relations;
2. Make recommendations to the City Manager on personnel rules and regulations, salary, and benefits;
3. Discuss internal administrative procedures involving employees;
4. Discuss mutual problems among employees; and
5. Discuss and refer to the City Manager broad and general issues that either cannot be accommodated by the normal grievance process as stated in Section 605. Grievance Procedure, or require immediate action on the part of the City.

### **B. Membership**

Representatives of the Tempe Employees' Council (TEC) shall be selected from non-supervisory employees in the classified service, who are not members of an employee group represented by an official and exclusive employee organization for meet and confer purposes. Changes in apportionment shall be approved by a majority of the total TEC membership subject to City Manager approval. Representatives shall be elected in their divisions, or in some cases their departments.

### **C. Meetings**

1. Regular meetings of the Tempe Employees' Council (TEC) are held monthly. These meetings are attended by the employee representatives or their alternates. Fifty (50%) percent plus one (1) of total membership constitutes a quorum to do business.
2. The Council may hold special meetings, when required, with approval of the City Manager.
3. Employee representatives shall be allowed six (6) hours per month, Executive Board Members shall be allowed eighteen (18) hours per month, and the Tempe Employees' Council (TEC) Chairperson shall be allowed forty (40) hours per month, during scheduled work hours for the purpose of conducting TEC business, which includes but is not limited to general meetings, executive board meetings, committee meetings, and other purposes as may be determined by the City Manager.

The release of employees for TEC business shall not be unreasonably withheld by supervision. In the event that supervision identifies special circumstances and reasonable justification for employee exclusion from TEC business, the Department must submit a written explanation approved by the City Manager before excluding an employee.

4. An agenda will be prepared and distributed to all representatives within a week of the Tempe Employees' Council (TEC) meetings.
5. The Council may discuss items and topics that they consider to be of general employee interest and concern.

Meetings are conducted according to parliamentary procedure. Minutes of each meeting are to be kept and posted in each department following review by the Tempe Employees' Council (TEC) Chairperson.

All eligible employees may attend TEC meetings on their own time.

#### **D. TEC Recommended Changes to the Personnel Rules**

The Tempe Employees' Council (TEC) may prepare and forward to the City Manager changes it recommends to the Personnel Rules and Regulations.

#### **E. Recommended Changes to the Personnel Rules**

Proposed changes to the Personnel Rules and Regulations shall be submitted to the Tempe Employees' Council (TEC) for review and comments at least 45 days before adoption by the City Council. The Chairperson of the TEC shall submit the proposed changes to the TEC at the monthly meeting following receipt of the proposed changes. A majority of the Executive Committee may waive this 45-day requirement for good cause upon request by the Human Resources Manager. All Administrative Memoranda shall be submitted to TEC for review.

#### **F. By-Laws**

Tempe Employees' Council (TEC) By-Laws may include but are not limited to elections, duties, obligations, parliamentary procedures, and removal from office. TEC By-Laws and amendments to the By-Laws shall be approved by a two-thirds vote of the elected members and are subject to the City Manager's approval.

## **Section 607: Tempe Supervisors' Council (TSC)**

### **A. Purpose**

The Tempe Supervisors' Council (TSC) serves as an advisory group to the City Manager and is not a public body under the State of Arizona Open Meeting Act, A.R.S. 38-431. The purpose of the Tempe Supervisors' Council (TSC) is to work with the City Manager to:

1. Develop and promote a healthy and productive work environment;
2. Build open communication, trust and respect at all levels
3. Foster cooperative relationships throughout the City;
4. Cultivate and promote diversity in the workplace;
5. Discuss and recommend resolution to broad and general mutual issues and concerns among supervisors;
6. Recommend changes to personnel rules and regulations, administrative procedures/guidelines, salaries, benefits or other related activities;
7. Discuss and refer to the City Manager issues and concerns that either cannot be accommodated by the normal grievance process or requires immediate action on the part of the City.

### **B. Membership**

Representatives of the TSC shall be selected from Supervisors in the classified service, which supervise at least one (1) full-time benefited employee. Changes in apportionment shall be approved by a majority of the total TSC membership subject to City Manager approval. Representatives shall be elected in their departments.

### **C. Meetings**

1. Regular meetings of the TSC are held on the first Tuesday of each month. The Supervisor representatives or their alternates attend these meetings. Fifty percent (50%) plus one (1) of total membership constitutes a quorum to do business.
2. The Council may hold special meetings, when required, with approval of the City Manager.
3. Employee representatives shall be allowed six (6) hours per month, Executive Board Members shall be allowed eighteen (18) hours per month, and the TSC Chairperson shall be allowed forty (40) hours per month, during scheduled work hours for the purpose of conducting TSC business, which includes, but is not limited to, general meetings, executive board meetings, committee meetings, and other purposes as may be determined by the City Manager.

A supervisor or manager shall not unreasonably withhold the release of supervisors for TSC business. In the event that a supervisor or manager identifies special circumstances and reasonable justification for excluding a supervisor from TSC business, the department must submit a written explanation to the City Manager for his or her approval.

4. An agenda will be prepared and distributed to all representatives within a week of the Tempe Supervisors' Council meetings.
5. The Council may discuss items and topics that they consider to be of general Supervisor interest and concern. Meetings are conducted according to parliamentary procedure. Minutes of each meeting are to be kept and posted for a reasonable time in each department following review by the Tempe Supervisors' Council Chairperson.

## **Section 608: Safety**

### **A. Guidelines**

The City of Tempe uses the Occupational Safety and Health Act (OSHA) Standards as a guide to provide employees a safe place to work.

### **B. Responsible Parties**

#### **1. City Manager**

The City Manager or designee is responsible for the coordination of safety activities and programs throughout the City, and has the authority to stop employees from performing unsafe work or using unsafe equipment.

#### **2. Department Manager**

The primary responsibility for providing a safe working environment rests with the Department Manager. It is the responsibility of each Department Manager to enforce the maintenance of safe working conditions, encourage safety suggestions and discussions, and ensure that all accidents and injuries are reported promptly and properly.

#### **3. Supervisor**

It is the responsibility of each supervisor to:

- a. Detect and correct unsafe working conditions and practices.
- b. Train employees in correct work procedures and City safety policies.
- c. Ensure that each employee knows and follows safety rules.
- d. Encourage safety suggestions and discussions.
- e. Ensure that all accidents and injuries are reported promptly and properly.

#### **4. Employee**

Employees are required, as a condition of employment, to observe all safety regulations given orally or in writing.

Failure to procure equipment when required or to properly use and wear required safety equipment shall result in disciplinary action. Inability to wear required safety equipment for any reason, including medical, may be grounds for disqualification of employment of job applicants and grounds for transfer, reclassification, demotion or dismissal of City employees.

In addition to guarding their own safety and City property, employees shall do everything possible to safeguard co-workers and others affected by the work.

Employees shall immediately report to their supervisor any accident, illness, or disease arising from their employment that affects the employee or anyone else. Employees shall also report any unsafe condition to their supervisor.

### **C. Workplace Violence**

The City of Tempe is committed to providing a safe environment for its employees and those who conduct business with the City. The City shall not tolerate acts of violence committed by or against City employees or members of the public while on City property or while performing City business and such acts shall be prosecuted as appropriate.

The City shall use any and all legal, managerial, administrative and disciplinary procedures to secure the workplace from violence and to protect employees and members of the public, including obtaining a protective order pursuant to Arizona Revised Statute 12-1810.

## **Section 609: Training and Education**

### **A. Guidelines**

The City of Tempe is committed to providing training opportunities for the professional development of all employees.

Training opportunities include general education, employee development, job training, and other programs.

Employees may be required to successfully complete special training courses as a condition of employment.

### **B. Reimbursement**

Regular employees are reimbursed for educational expenses according to Rule 5. Section 516. Tuition and Book Reimbursement.

## **Section 610: Workplace Violence**

### **A. Guidelines**

All workplace violence incidents committed by employees while on City property or in the course of City business shall be disciplined, up to and including termination and may result in criminal charges being filed. The City shall use all necessary procedures to secure the workplace from violence and to protect employees and members of the public. (See also Rule 6. Section 611, Employee Privacy and Searches.)

### **B. Definition**

Workplace violence shall mean an act or behavior that:

1. Consists of a physical assault;
2. Is an attempt at a physical assault;
3. Consists of a communicated or perceived threat to harm or endanger the safety of him or herself or another individual;
4. Would be interpreted as carrying potential for physical harm to the individual or property; and
5. Involves carrying or displaying a deadly weapon

### **C. Prohibited Conduct**

Examples of conduct prohibited by the City of Tempe include, but are not limited to, the following:

1. Intentionally and/or knowingly causing physical injury to another person or property;
2. Making threatening remarks by any means including verbally, in writing, by email, over the phone, by voice mail, or through another person;
3. Knowingly withholding information about threats of violence by or against an employee;
4. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another person to emotional distress;
5. Stalking, following or harassing an employee or member of the public by creating a reasonable fear of injury or subjects that person or another person to emotional distress;
6. Intentionally damaging City property, the property of another employee or property belonging to a member of the public;
7. Intentionally bringing or delivering into the workplace any contaminants, hazardous or toxic materials, biohazards, and/or illegal drugs;

8. During scheduled work hours, possession (on person or in a personal vehicle, which is being used for City business) of a deadly weapon, either concealed or unconcealed, while on City property or in a City vehicle at any time. Deadly weapons include, but are not limited to, explosives, firearms, and prohibited weapons as those terms are defined by Arizona Revised Statutes §§ 13-3101A. (1), (3), (4), and (7), but do not include mace and pepper spray.

This prohibition applies to all City employees and contract employees, excluding employees engaged in military or law enforcement activities; and

9. Committing acts motivated by, or related to domestic violence.

#### **D. Reporting Procedures**

All workplace violence incidents shall be reported immediately to a Department Manager or by calling 911. Department Managers are required to immediately notify Human Resources of the situation. All workplace violence incidents shall be investigated for appropriate action and disposition. The results of the investigation will be discussed with the involved individuals on a need to know basis.

Employees shall report situations that occur outside the workplace (e.g., domestic violence or disputes, where injunctions against harassment or restraining orders have been issued and where a City workplace or employee has been named) to their Department Manager or Director, and/or Supervisor. Department Managers shall notify the Human Resources Manager or designee of these situations.

## **Section 611: Employee Privacy Rights and Searches**

### **A. Guidelines**

When the City reasonably believes that workplace safety is threatened or that an employee has committed a violation of the City's Personnel Rules and Regulations related to workplace safety, the City reserves the right to search any and all persons, locations, and property in the workplace, including, but not limited to, purses, briefcases, baggage, toolboxes, lunch sacks, and clothing. Department Managers are required to immediately notify Human Resources prior to conducting a search.

### **B. Property Search**

City of Tempe property may be inspected or searched at any time with or without an employee's approval, in order to review or remove items relating to City business or to remove all personal items that are unlawful or inappropriate. This property may be searched in the employee's presence or while the employee is absent. City of Tempe property includes, but is not limited to, offices, desks, files, including computer and electronic files, email, tapes, drives, disks, and all other electronic communication devices, lockers, cabinets, work spaces, storage spaces, whether or not locked by City or employee locks, City vehicles, and telephone records for the City phone system.

### **C. Pat-Down Search**

A pat-down of the outside clothing is permissible. Every effort shall be made to do the pat-down search in private with two or more persons of the same gender present, one of which will do the pat-down search. No strip searches of a person shall be done unless they are done with probable cause pursuant to a validly executed search warrant.

## **Section 612: Internet, Email, and Telephone Use**

### **A. Guidelines**

The City provides employees access to the City's electronic mail system (email), the Internet, and other computer systems (collectively referred to as the "Computer System") as necessary to conduct official City business. The following guidelines are intended to instruct employees of their duties and to notify employees that the Internet, email contents, and any other documents generated or received on the Computer System, are not confidential. All data stored or printed as a document is subject to audit and review at any time without advance warning. There should be no expectation of privacy in the use of the Computer System.

When logging on to the Computer System, all employees will be asked to consent to the following policy:

**This computer and the programs operating upon it are City of Tempe property and you are only authorized to use them in accordance with the City's Rules & Regulations, including the City's Internet and Email policy. All communications are subject to being monitored pursuant to local, state and federal laws. Any unauthorized use or abuse of the equipment or programs may result in disciplinary action up to and including immediate termination, as noted in the City's Personnel Rule 4. Section 406. B. 30. Grounds for Dismissal and Rule 6. Section 612. Internet, Email, and Telephone Use.**

**If you have any questions concerning this policy, please contact your Department Manager, Human Resources, or the City Attorney's Office.**

### **B. Computer System Usage**

The use of the Computer System is restricted to official City business. Limited personal use during authorized work breaks, or before or after work hours are permitted. Limited personal use includes scheduling personal appointments, conducting research, preparing educational papers, and similar matters. Personal use shall never include the following, and is strictly prohibited:

1. Accessing any adult pornographic material(s), websites, or anything which could be construed as sexually explicit, scandalous, defamatory, libelous, illegal or immoral;
2. Using for commercial or financial gain, such as operating a business or posting or selling personal items other than in the "For Sale" folder.
3. Soliciting, including charitable campaigns, except as specifically authorized as part of official City sponsored events;
4. Sending threatening, slanderous, racially and/or sexually harassing messages;

5. Issuing or sending chain mail, practical jokes, and other frivolous messages; and
6. Accessing websites or locations where a fee is charged unless approved by a Department Manager; and
7. Propagating a computer worm or virus, or any other program or material which may have a debilitating or disabling affect on the City's computer systems.

### **C. Telephone Use**

The use of the City's telephone equipment, including land based or cellular is restricted to official City business. Personal use shall never include the following:

1. Accessing any pornographic sites;
2. Using for commercial or financial gain such as operating a business;
3. Soliciting, including charitable campaigns, except as specifically authorized as part of official City sponsored events;
4. Soliciting for political campaigns;
5. Sending threatening, slanderous, racially or sexually harassing messages;

The City recognizes that employees may need to occasionally make a personal call. Employees may use City telephone equipment for limited personal use with supervisory approval. Personal calls should be brief. Employees shall not make any long distance calls or use directory assistance without supervisory approval. Employees may dial long distance without supervisory approval when using a phone card or when dialing collect. Otherwise all calls shall be local and within the free dialing zone.

All charges, including long distance, directory assistance, roaming, and local airtime charges incurred by employees when using City equipment for personal use, shall be reimbursed to the City.

### **D. Employee Responsibility**

1. Every employee is responsible for the security of his or her telephone or Computer System account password, and will be held responsible for all use or misuse of his or her account. Employees should ensure that unauthorized use is prevented by logging out of their Computer System account while away from their work station.

An unauthorized attempt or entry into another person's computer or account is called "Hacking," and is not permitted. Hacking is a violation of the Federal Electronic Communications Privacy Act (ECPA) 18 U.S.C. §2510.

2. Anonymous messages or misrepresenting yourself as someone else is prohibited.
3. Email is not secure. All email is sent unencrypted and is easily read. Private and/or confidential information should not be sent using the Computer System.
4. Employees who inadvertently access an adult pornographic website or telephonic location shall report this to their supervisor immediately. If the supervisor is unavailable, the employee shall report this to the Information Technology Department Manager. Inadvertent access shall be recorded as a mistake. An example of this is when an adult site appears while in the process of conducting a word search in the Internet, or misdialing a telephone number.

#### **E. Public Record Nature of Email/Confidentiality**

Email is subject to disclosure pursuant to the public records laws as enacted under Title 39 of the Arizona Revised Statutes. A public record is any document that is made in the course of performing a duty, the immediate purpose of which is to disseminate information to the public, or to serve as a memorial of official transactions for public record.

If an email is considered a public record, you may be required to disclose the email upon request. If the context of the email is considered a public record, you must retain the record for the period of time as required by the retention schedule for the record.

#### **F. Disciplinary Action**

Failure to follow the rules established for computer usage under Rule 406.B. shall result in disciplinary action up to and including termination. Immediate termination may result depending on the nature of the violation.